



Australian Capital Territory

Planning and Land (Consequential Amendments) Act 2002

Act 2002 No 56

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Australian Capital Territory

Planning and Land (Consequential Amendments) Act 2002

Act 2002 No 56

An Act to amend various Acts and regulations because of the enactment of the *Planning and Land Act 2002*, and for other purposes

*Notified under the Legislation Act 2001 on 20 December 2002
(see www.legislation.act.gov.au)*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Planning and Land (Consequential Amendments) Act 2002*.

2 Commencement

This Act commences on the commencement of the *Planning and Land Act 2002*, section 5 (Object of Act).

Note The naming and commencement provisions automatically commence on the notification day (see *Legislation Act 2001*, s 75).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

4 Acts and regulations amended—schs 1-3

Schedules 1 to 3 amend the Acts and regulations mentioned in them.

Schedule 1 Land (Planning and Environment) Act 1991

(see s 4)

Part 1.1 Act, part 2 (Planning)

[1.1] Section 5, definition of *background papers*, paragraph (b) (i) and (ii)

substitute

- (i) any relevant direction of the Minister; and

Note The Minister may give directions under this Act, s 26 and s 94 (1) (b) and the *Planning and Land Act 2002*, s 12 (1) (b).

[1.2] Section 5, definition of *background papers*, paragraph (b) (iii) to (vii)

renumber as paragraph (b) (ii) to (vi)

[1.3] Section 5, definition of *background papers*, paragraph (c)

substitute

- (c) a statement, by the planning and land authority, of the reasons for any inconsistency between the draft plan and—
 - (i) a relevant direction of the Minister; or
 - (ii) a submission of the conservator mentioned in paragraph (b) (ii); or
 - (iii) an interim heritage places register submitted to the authority; or

Note Sections 17 and 63 provide for the submission by the heritage council of an interim heritage places register.

- (iv) a recommendation in a report mentioned in paragraph (b) (iv), (v) or (vi); and

[1.4] Section 5, definition of *draft plan variation*

substitute

draft plan variation—

- (a) means a draft plan variation prepared by the planning and land authority under section 15 (Preparation of plan variations) and—
 - (i) if section 19C (Draft plan variations that do not affect rights) does not apply—notified under section 19 (Public consultation—notification); or
 - (ii) if section 19C applies—notified in the legislation register under section 19C (2); and
- (b) for a draft plan variation that has been revised under section 22 (1) (a) or 27—includes the draft plan variation as revised.

[1.5] Section 9 (5), definition of *defined period*, paragraph (d)

omit

29 (10) (b)

substitute

30A (3) (b)

[1.6] Section 9 (5), new definition of *draft plan variation*

insert

draft plan variation includes a provision of a draft plan variation.

[1.7] Section 15

substitute

15 Preparation of plan variations

- (1) The planning and land authority may prepare variations to the plan.
- (2) A plan variation may be prepared in separate stages or parts.

[1.8] Section 19 (6)

omit

(Executive powers)

substitute

(Minister's powers)

[1.9] Section 19B (2)

omit

[1.10] Section 19B (3)

omit

authority's opinion

substitute

planning and land authority's opinion

[1.11] Section 19B

renumber subsections when Act next republished under Legislation Act 2001

[1.12] Sections 19C and 20

substitute

19C Draft plan variations that do not affect rights

- (1) This section applies if the planning and land authority is satisfied that a draft plan variation—
 - (a) would, if approved, not affect adversely anybody's rights; or

- (b) has as its only object the correction of a formal error in the plan.
- (2) The draft plan variation is a notifiable instrument.
Note A notifiable instrument must be notified under the *Legislation Act 2001*.
- (3) Sections 19 and 19B do not apply to the draft plan variation, but the planning and land authority must take reasonable steps to inform itself about public attitudes to the draft plan variation.

20 Consultation with national capital authority

Before giving a draft plan variation to the Minister, the planning and land authority must consult with the national capital authority.

[1.13] Section 21

substitute

21 Public inspection of comments

- (1) The planning and land authority must make copies of any comments mentioned in section 19 (1) (c) available for public inspection during office hours during the period, and at the places, mentioned in the consultation notice under section 19 that refers to the relevant draft plan variation.
- (2) The planning and land authority may omit from the copy of a comment made available under subsection (1) information that would identify the person who had made the comment if—
 - (a) the person has asked that the information be omitted; and
 - (b) the authority is reasonably satisfied that it would not be in the public interest for the information to be published.

[1.14] Section 26 heading

substitute

26 Minister's powers

[1.15] Section 26 (1)

omit

the Executive shall—

substitute

the Minister must—

[1.16] Section 26 (2)

substitute

- (2) Before taking action under subsection (1), the Minister must consider any recommendation made by a committee of the Legislative Assembly in relation to the draft variation, or related documents, referred to the committee under section 25.

[1.17] Section 26 (4) (a)

omit

an Executive direction

substitute

a direction

[1.18] Section 27 (2)

omit

Executive

[1.19] Section 27 (3)

omit

Executive's

substitute

Minister's

[1.20] Sections 28 (1) and 29 (2)

omit

(Executive powers)

substitute

(Minister's powers)

[1.21] Sections 29 (8) and (9), 30 (3) and 30B

omit

Minister

substitute

planning and land authority

[1.22] Division 2.4

omit

[1.23] Part 2, further amendments, mentions of *Executive*

omit

Executive

substitute

Minister

in the following provisions:

- section 10
- section 19 (1)
- section 22
- section 24

- section 25
- section 26 (1) (b) and (6)
- section 27 (1)
- Section 27 (3) (1st mention)
- section 28 (1) (b)
- section 29 (1)

[1.24] Part 2, further amendments, mentions of *authority*

omit

authority

substitute

planning and land authority

in the following provisions:

- section 5, definition of ***background papers***, paragraph (d)
- section 10 (1) and (2)
- section 10 (3) (1st mention)
- section 16
- section 17 (1) (1st mention)
- section 17 (3) (1st mention)
- section 17 (4)
- section 18 (1) and (3)
- section 19 (1) (1st mention)
- section 19 (2), (5) and (6)
- section 19B (1)
- section 22 (1) and (4)

- section 22 (5) (1st mention)
- section 22 (6)
- section 22 (7) (1st mention)
- section 22 (9)
- section 24 (1) (1st mention)
- section 24 (2), (4) and (5)
- section 26 (1) (b) and (6)
- section 28 (1) (1st mention)
- section 28 (3)
- section 30 (5)
- section 32 (1) and (6)

Part 1.2 Act, part 3 (Heritage)

[1.25] Section 63 heading, (1), (2) and (3) (a)

omit

authority

substitute

planning and land authority

[1.26] Section 63 (4)

omit

section 282A (5) (a)

substitute

section 282A (AAT Review of decisions)

[1.27] Section 63 (4) (b)

omit

authority

substitute

planning and land authority

[1.28] Section 63 (5)

omit

section 282A (5) (a)

substitute

section 282A (AAT Review of decisions)

[1.29] Section 63 (5) (b)

omit

authority

substitute

planning and land authority

[1.30] Section 64 (1)

substitute

- (1) The Minister may, on behalf of the Territory, acquire a place listed on the heritage places register if the Minister is satisfied that—
- (a) the place has substantial heritage significance; and
 - (b) acquisition is the most prudent and feasible means to ensure the conservation of the heritage significance; and
 - (c) it is in the public interest for the Territory to acquire the place.

[1.31] Sections 64 (2), (3) and (4) and 71 (2)

omit

Executive

substitute

Minister

[1.32] Section 92

omit

authority

substitute

planning and land authority

Part 1.3 Act, part 4 (Environmental assessments and inquiries)

[1.33] Division 4.1, new note

insert before section 111

Note The Environment Minister may delegate a function of the Environment Minister under this part to the planning and land authority (see *Legislation Act 2001*, s 254A).

[1.34] Section 117 (5)

omit

authority

substitute

planning and land authority

[1.35] Section 125 (7)

omit

section 282A (4) (Review of decisions)

substitute

section 282A (3) (AAT Review of decisions)

Part 1.4 **Act, part 5 (Land administration)**

[1.36] Section 160 (1)

substitute

- (1) This part applies to the grant of an interest in Territory land by the planning and land authority on behalf of the Executive.

[1.37] New section 160B

insert

160B Planning and land authority may grant leases

- (1) The planning and land authority is authorised to grant, on behalf of the Executive, leases that the Executive may grant on behalf of the Commonwealth.
- (2) In this section:

lease means a lease of Territory land.

[1.38] Section 161 (1)

substitute

- (1) The planning and land authority may grant a lease by—
 - (a) auction; or
 - (b) tender; or
 - (c) ballot; or
 - (d) direct grant.

Note A fee may be determined under s 287 (Determination of fees) for this section.

[1.39] Section 163 (2)

omit

The Executive may, on behalf of the Commonwealth,

substitute

The planning and land authority may

[1.40] Section 164 (1)

omit everything before paragraph (a), substitute

- (1) The planning and land authority may grant a lease of Territory land for a charge that is less than the market value of the lease if the authority is satisfied it is desirable and in the public interest to do so to facilitate—

[1.41] Section 166 (1)

omit everything before paragraph (a), substitute

If it is proposed that a lease of Territory land be granted, the Minister may—

[1.42] Section 166 (2)

substitute

166A Grants of leases after inquiries or assessments

- (1) This section applies if the Minister, under section 166, establishes a panel to conduct an inquiry, or directs that an assessment be made, in relation to the proposed grant of a lease.
- (2) The Minister must—
 - (a) consider the report of the panel or the assessment; and

- (b) review the provisions of the proposed lease taking the report or assessment into account; and
- (c) direct the planning and land authority—
 - (i) to grant the proposed lease; or
 - (ii) to grant the proposed lease as varied in accordance with the direction; or
 - (iii) to refuse to grant the proposed lease.
- (3) The planning and land authority may grant the proposed lease only in accordance with a direction of the Minister under subsection (2) (c).

[1.43] Section 168

substitute

168 Authority need not grant lease

- (1) The planning and land authority need not grant a lease of Territory land to an applicant, even if applications for the lease have been invited.
- (2) If applications for a lease have been invited subject to conditions, the planning and land authority may, without granting a lease, invite fresh applications for the lease subject to the same or other conditions.

[1.44] Section 171

substitute

171 Grant of further residential leases

- (1) This section applies if—
 - (a) the holder of a residential lease of land applies to the planning and land authority for the grant of a further residential lease of the land; and

- (b) neither the Territory nor the Commonwealth needs the land for a public purpose; and
 - (c) the lessee pays the fee worked out under the determination under subsection (3); and
 - (d) the lessee surrenders the existing lease.
- (2) The planning and land authority must grant the lessee a further residential lease of the land for a term not longer than 99 years to begin on the day after the day the existing lease is surrendered.
- (3) The Minister may make a determination, in writing, for subsection (1) (c).
- (4) If the term of a further lease granted under subsection (2) is not longer than the term of the existing lease, the fee payable under subsection (1) (c) must not be more than the cost of granting the lease.
- (5) A determination under subsection (3) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

[1.45] Section 171A (1)

omit

the Executive shall, on behalf of the Commonwealth,

substitute

the authority must

[1.46] Section 171A (5)

substitute

- (5) If the national capital authority has set a maximum term for a rural lease of land in a designated area, a determination under subsection (2) relating to the land must not set a term for a further rural lease of the land that is longer than the maximum term.

(5A) In subsection (5):

designated area—see the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth), section 4 (Definitions for whole Act).

[1.47] Section 172

substitute

172 Grant of further leases for purposes other than residential or rural

- (1) This section applies if—
 - (a) the holder of a lease of Territory land other than a residential lease or a rural lease applies to the planning and land authority for the grant of a further lease of the land for the same purposes; and
 - (b) neither the Territory nor the Commonwealth needs the land for a public purpose; and
 - (c) all rent due under the existing lease is paid; and
 - (d) the lessee pays the fee worked out under the determination under subsection (3); and
 - (e) the lessee surrenders the existing lease.
- (2) The planning and land authority must grant the lessee a further lease of the land for the same purposes for a term not longer than 99 years to begin on the day after the day the existing lease is surrendered.
- (3) The Minister may make a determination, in writing, for subsection (1) (d).
- (4) If the term of a further lease granted under subsection (2) is not longer than the term of the existing lease, the fee payable under subsection (1) (d) must not be more than the cost of granting the lease.

- (5) A determination under subsection (3) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

[1.48] Section 172A (2)

substitute

- (2) The planning and land authority may grant a further lease of a unit, or the common property, under a units plan only if—
- (a) the authority grants further leases for all the units and the common property; and
 - (b) the further leases are all granted for the same term.

[1.49] Section 172B (2)

substitute

- (2) The planning and land authority may grant a further lease of a lot in a community title scheme only if—
- (a) the authority grants further leases for all the lots in the scheme; and
 - (b) the further leases are all granted for the same term.

[1.50] Section 173 (1), definition of *lessee*

substitute

lessee, for a lease that has been surrendered or ended, or the term of which has ended, means the person who was the lessee under the lease at the time of the surrender or ending.

[1.51] Section 173 (4)

substitute

- (4) Before the end of the term of a lease of Territory land, the planning and land authority may declare that the land comprised in the lease, or part of the land, is available for a further lease.

- (4A) If the lessee does not elect to take a further lease of the land, or part of the land, declared to be available within 6 months after the end of the term of the lease, the amount of any expenditure reasonably incurred by the Territory, the planning and land authority or both, in relation to the grant of a lease of the land, or part of the land, to anyone else must be deducted from the amount payable to the lessee under this section.

[1.52] Section 173 (5)

omit

terminated or surrendered

substitute

surrendered or ended

[1.53] Section 173 (5)

omit

termination or surrender

substitute

surrender or ending

[1.54] Section 173 (7)

substitute

- (7) If a lease is surrendered or ended, the planning and land authority may work out the amount of the expenditure reasonably incurred by the Territory, the planning and land authority or both, in relation to—
- (a) the surrender or ending of the lease; and
 - (b) any grant of a further lease of the land or part of the land.

- (7A) The amount worked out under subsection (7) must be deducted from any amount payable under subsection (5) to the lessee of the surrendered or ended lease.

[1.55] Section 173

renumber subsections when Act next republished under Legislation Act 2001

[1.56] Section 177 (3)

substitute

- (3) If a request is made under subsection (1) in relation to a variation, the planning and land authority must review the variation and may confirm the variation or set it aside and substitute any other variation the authority considers appropriate.

[1.57] Section 179 (4)

omit everything before paragraph (a), substitute

- (4) The planning and land authority must not issue a certificate of compliance in relation to a building and development provision to which a lease under the *Unit Titles Act 2001* is subject unless the other requirements of this section are satisfied and the authority is satisfied—

[1.58] Section 180 (1) (d)

substitute

- (d) the lessee has obtained—
- (i) a certificate of compliance under section 179; or
 - (ii) the consent of the planning and land authority under subsection (2).

Note A consent under the *City Area Leases Ordinance 1936* may be taken to be a consent under s (2) (see s 292).

[1.59] Section 180 (2)

substitute

- (2) The planning and land authority may, in writing, consent to a legal or equitable assignment or transfer of a lease, or an interest in a lease, mentioned in subsection (1) if—
- (a) the lessee or a proposed assignee or transferee applies for the assignment or transfer; and
 - (b) the authority is satisfied the proposed assignee or transferee intends to comply with the building and development provision; and
 - (c) the authority has been given any security required by the authority for compliance with the provision by the proposed assignee or transferee.

Note A fee may be determined under s 287 (Determination of fees) for this subsection.

[1.60] Section 184A (1)

substitute

- (1) The planning and land authority must not execute a variation of a nominal rent lease unless the lessee has paid the Territory any change of use charge determined by the authority under subsection (2), subject to any remission or increase under section 184C.

[1.61] Section 184D (2)

substitute

- (2) If the planning and land authority executes a variation of a rental lease, the authority must reappraise the rent payable under the lease, following (to the extent possible) the method provided by the rental provisions of the lease.

[1.62] Section 185 (b) (iii)

omit

Executive

substitute

authority

[1.63] Section 186C (2) (b) (i)

substitute

- (i) the planning and land authority; and

[1.64] Section 186C (4)

omit

[1.65] Section 186D (6)

substitute

- (6) The validity of a dealing made or entered into with the consent of the planning and land authority under subsection (5) is not affected—
- (a) by a defect or irregularity in relation to the giving of the consent; or
- (b) because a ground, or all grounds, for the consent had not arisen.

[1.66] Section 187A (1)

substitute

- (1) The planning and land authority must not execute a consolidation or a subdivision unless the lessee has paid the Territory any change of use charge determined by the authority under subsection (2), subject to any remission or increase under section 187C.

[1.67] Section 188 (5) (a) (iii) and (b)

omit

Executive

substitute

authority

[1.68] Sections 189 and 190

substitute

189 How land may be recovered

- (1) This section applies if—
 - (a) a person who has been a lessee of Territory land remains in possession of the land after—
 - (i) the term of the lease has ended; or
 - (ii) the lease has been surrendered or ended; or
 - (b) a person who has been a licensee of Territory land remains in possession of the land after—
 - (i) the term of the licence has ended; or
 - (ii) the licence has been surrendered or ended.
- (2) The Executive may, by written notice to the person (the ***unlawful occupier***), demand that the unlawful occupier give possession of the land to the Executive within the reasonable period stated in the demand.
- (3) If a demand is not complied with—
 - (a) the Executive may apply to the Magistrates Court for an order that possession of the land be given to the Executive; and
 - (b) the court may issue a warrant authorising a police officer, within 30 days after the day the warrant is issued, to enter the

land with the assistance and by the force that is reasonable, and give possession of the land to the Executive.

- (4) The planning and land authority is authorised to do any of the following on behalf of the Executive:
- (a) make a demand under subsection (2);
 - (b) make an application to the Magistrates Court under subsection (3) (a);
 - (c) take possession of land under this section.

- (5) In this section:

licence means a licence granted by the Territory, the Commonwealth or the planning and land authority.

190 Evidence of ending of lease

- (1) The planning and land authority may certify in writing that a lease of Territory land mentioned in the certificate has ended.
- (2) A certificate under subsection (1) is evidence of the matter it states.
- (3) A document that purports to be a certificate under subsection (1) is taken to be such a certificate, unless the contrary is proved.

[1.69] Section 192 heading

omit

authority

substitute

planning and land authority

[1.70] Section 192

omit

authority

substitute

planning and land authority

[1.71] Section 209

omit

Executive may, on behalf of the Commonwealth,

substitute

planning and land authority may

[1.72] Section 214 (2)

substitute

- (2) The planning and land authority may agree to accept the surrender of a lease, or part of the land comprised in a lease, under subsection (1) either unconditionally or subject to any condition the authority considers appropriate.

[1.73] Section 216 (1)

omit everything before paragraph (a), substitute

- (1) The planning and land authority may grant a lease of Territory land only if satisfied that the lessee will, during the term of the lease, have—

[1.74] New section 216 (2A)

insert

- (2A) The validity of a lease granted under this part is not affected by a failure to comply with this section.

[1.75] Section 216

renumber subsections when Act next republished under Legislation Act 2001

[1.76] Section 216A

substitute

216A Notification of certain leases

- (1) This section applies if, during a quarter, the planning and land authority grants a lease—
 - (a) by direct grant; or
 - (b) under section 163 (Leases to community organisations), section 164 (Special leases) or section 209 (Grant of leases).
- (2) The planning and land authority must, within 5 working days after the end of the quarter, give the Minister a statement that sets out, in relation to any lease mentioned in subsection (1) granted during the quarter—
 - (a) the name of the lessee; and
 - (b) a description of the land comprised in the lease in accordance with the *Districts Act 2002*, section 9 (Description of parcel of land for dealings); and
 - (c) the amount (if any) paid for the grant of the lease; and
 - (d) the provision of this Act under which the lease was granted.
- (3) The Minister must present to the Legislative Assembly a copy of a statement received under subsection (2) within 5 sitting days after the day the Minister receives it.
- (4) The validity of a lease is not affected by a failure to comply with subsection (2) or (3).
- (5) In this section—

quarter means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October in a year.

[1.77] Section 221

substitute

221 False or misleading statements in relation to leases

A person must not, in or in relation to an application for the grant, or a variation, of a lease of Territory land—

- (a) make a statement or representation the person knows is false or misleading in a material particular; or
- (b) omit from a statement or representation anything without which the statement or representation is, to the person's knowledge, misleading in a material particular.

Maximum penalty: 50 penalty units.

[1.78] Part 5, further amendments, mentions of *Executive*

omit

Executive

substitute

planning and land authority

in the following provisions:

- section 161 (3) to (6)
- section 163 (3)
- section 163 (9)
- section 164 (2), (7) and (8)
- section 167 (3), (5) and (6)
- section 169
- section 170

Schedule 1 Land (Planning and Environment) Act 1991
Part 1.4 Act, part 5 (Land administration)

Amendment [1.79]

- section 171A (1) (a)
- section 172A (1)
- section 172B (1)
- section 173 (2), (3) and (5A)
- section 184D (1) and (3)
- section 185 (1st mention)
- section 186A
- section 186C (1)
- section 186D (3) and (5)
- section 186H
- section 188 (1) and (3)
- section 188 (5) (1st mention)
- section 208 (1)
- section 210 (1)
- section 214 (1)
- section 215
- section 216 (2)
- section 217
- section 219 (1)

[1.79] Part 5, further amendments, mentions of *Minister*

omit

Minister

substitute

planning and land authority

in the following provisions:

- section 173 (3)
- section 174
- section 176 (1)
- section 177 (1)
- section 178
- section 179 (1) and (2)
- section 180 (3) (1st mention)
- section 184A (2)
- section 184C
- section 186 (1) (d)
- section 187A (2)
- section 187C
- section 188 (2A)

Part 1.5 **Act, part 6 (Approvals and orders)**

[1.80] Section 222, definition of *approval*

substitute

approval means—

- (a) an approval under section 230 (Approvals); or
- (b) if, on reconsideration of an original decision, an application for development is approved—an approval on reconsideration.

Note Subdivision 6.2.4 deals with reconsideration of original decisions.

[1.81] Section 222, new definition of *original decision*

insert

original decision—see section 246 (1).

[1.82] Section 222, definition of *relevant authority*

substitute

relevant authority, in relation to an application, means—

- (a) if the Minister has, under section 229B (Minister may decide some applications), decided to consider an application—the Minister; or
- (b) the planning and land authority.

[1.83] Section 226 (5)

omit

or the Minister

[1.84] Section 226 (7)

substitute

- (7) The planning and land authority may—
 - (a) correct a formal error in an application; or
 - (b) at the request of the applicant, make an alteration to an application.

[1.85] Section 226 (8)

omit everything before paragraph (a), substitute

- (8) If the planning and land authority makes an alteration or correction under subsection (7), the authority must—

[1.86] Section 227 (1) (f)

omit

paragraph.

substitute

paragraph; and

[1.87] New section 227 (1) (g) to (i)

insert

- (g) any comments of the planning and land authority or the planning and land council given to the Minister for the Minister's consideration of an application under section 229B (Minister may decide some applications); and
- (h) if an application has been reconsidered under subdivision 6.2.4—the date and details of the decision on reconsideration; and
- (i) details of any minor amendment made under section 247.

[1.88] Section 228 (3)

substitute

- (3) The planning and land authority must approve an application if satisfied that—
 - (a) the part of the application for approval to undertake a development to which the application under subsection (1) relates contains information—
 - (i) about the personal or business affairs of a person; or
 - (ii) that has been given to the authority in confidence; or
 - (iii) the publication of which would disclose a trade secret; or
 - (iv) the disclosure of which is likely to affect the conduct of a person's lawful business affairs; and

- (b) it would not be in the public interest for the part to be published.

[1.89] Section 229 (1) (a) (ii)

omit

Minister

substitute

authority

[1.90] Section 229A

substitute

229A Direction that applications be submitted to Minister

- (1) The Minister may, in writing, direct the planning and land authority to refer to the Minister an application that has not been decided by the authority.

Note The *Planning and Land Act 2002*, s 10 provides that the planning and land authority must comply with directions given to it under a Territory law.

- (2) When complying with the direction, the planning and land authority must also give the Minister—
- (a) the information and documents received by the authority in relation to the application; and
- (b) any other relevant information and documents held by the authority.
- (3) If the Minister gives a direction under subsection (1) in relation to an application, the planning and land authority must take no further action that would lead to a decision by the authority on the application.

229B Minister may decide some applications

- (1) This section applies in relation to an application referred to the Minister under section 229A.
- (2) The Minister may decide to consider the application if, in the Minister's opinion—
 - (a) the application raises a major policy issue; or
 - (b) the application seeks approval for a development that may have a substantial effect on the achievement or development of objectives of the Territory plan; or
 - (c) the approval or refusal of the application would provide a substantial public benefit.
- (3) If the Minister decides to consider an application, the Minister must tell the planning and land authority in writing about the decision.
- (4) An advice under subsection (3) is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.
- (5) An advice under subsection (3) must be notified under the *Legislation Act 2001* within 3 weeks after the day it is given.
- (6) If the Minister decides to consider an application, the Minister must—
 - (a) tell the applicant in writing about the decision and the grounds on which the decision has been taken; and
 - (b) ensure that the Minister has the comments of the planning and land authority and the planning and land council on the application; and
 - (c) approve or refuse the application.
- (7) Within 3 sitting days after the day the Minister decides an application, the Minister must present to the Legislative Assembly a statement containing—

- (a) a description of the development to which the application relates; and
 - (b) details of the land where the development is proposed to take place; and
 - (c) the applicant's name; and
 - (d) details of the Minister's decision; and
 - (e) the grounds for the decision.
- (8) The statement under subsection (7) must be accompanied by a copy of the comments of the planning and land council on the application to which the statement relates.
- (9) If the Minister is satisfied that the Minister should not consider the application, the Minister must refer the application back to the land and planning authority for decision.

[1.91] New section 231 (1) (a) (v)

insert

- (v) if the relevant authority is the Minister—the comments of the planning and land authority and the planning and land council; and

[1.92] Section 232 (1)

substitute

- (1) The planning and land authority may direct an applicant—
- (a) to give the notice of the application that the authority would, but for this section, be required to give; and
 - (b) to give notice to any other person.
- (1A) The planning and land authority need not give notice of an application under section 229 (Notice of application) or another Act if the authority gives a direction under subsection (1).

[1.93] Section 232 (2)

omit

requirement made

substitute

direction

[1.94] Section 232 (3)

omit

subsection (1)

substitute

a direction under subsection (1)

[1.95] Section 232

renumber subsections when Act next republished under Legislation Act 2001

[1.96] Section 237 (3)

omit

by the Minister

substitute

by the authority

[1.97] Section 237

renumber subsections when Act next republished under Legislation Act 2001

[1.98] Section 239

omit

Minister's

substitute

authority's

[1.99] Section 242

substitute

242 Approvals—notices to applicants and registrar-general

- (1) If an application is approved, the planning and land authority must give written notice—
- (a) to the applicant; and
 - (b) if the application approved relates to a variation of a lease—to the registrar-general for notification under the *Land Titles Act 1925*.

Note An application may be approved under s 246A on reconsideration of an original refusal—see s 222 (1), def *approval*.

- (2) A notice to an applicant must state the date the approval takes effect.

Note For date of effect of an approval, see s 249 (When approvals take effect).

[1.100] Section 243 (1)

substitute

- (1) If an application is approved, the planning and land authority must give each person who objected under section 237 (1) written notice of the approval.

Note An application may be approved under s 246A on reconsideration of an original refusal—see s 222 (1), def *approval*.

[1.101] Section 243 (4)

substitute

(4) If an application is refused, the planning and land authority must give written notice of the refusal to the applicant and each person who objected under section 237 (1).

(4A) In this section:

refused, for an application, includes confirming a decision to refuse an application on reconsideration of the decision under subdivision 6.2.4.

[1.102] Section 243

renumber subsections when Act next republished under Legislation Act 2001

[1.103] Section 244 (a)

omit

has been given to the Minister

substitute

have been given

[1.104] Section 245 (1)

substitute

(1) An approval may be conditional.

[1.105] Section 245 (3) (k)

omit

with the Minister for approval by him or her

substitute

with the planning and land authority for approval

[1.106] Section 245 (4)

omit

section 230 (2)

substitute

section 230 (4)

[1.107] New subdivision 6.2.4 and subdivision heading

insert

Subdivision 6.2.4 Reconsideration of applications for approval

245A Definitions for subdiv 6.2.4

In this subdivision:

new application—see section 246 (2).

original application—see section 246 (1) (a).

original decision—see section 246 (1) (a).

246 Applications for reconsideration

- (1) This section applies if—
- (a) an application (the *original application*) has been approved or refused (the *original decision*) by the planning and land authority; and
 - (b) either—
 - (i) an application has not previously been made under this section for reconsideration of the original decision (other than an application; or
 - (ii) an application has been previously made and the original decision was taken to be confirmed under section 246B (No action by planning and land authority within time).

- (2) The applicant for the original application may apply (the *new application*) for reconsideration of the original decision.
- (3) The new application must be made within—
 - (a) 4 weeks after the day the applicant is told about the decision by the planning and land authority; or
 - (b) any longer period allowed by the planning and land authority, either before or after the end of the 4 weeks.
- (4) The application must set out the grounds on which reconsideration of the original decision is sought.
- (5) The making of the application for reconsideration of the original decision automatically stays the operation of the decision.

246A Reconsideration of decisions

- (1) Within 4 weeks after the day the planning and land authority receives the new application, the authority must—
 - (a) reconsider the original decision; and
 - (b) after reconsideration—
 - (i) make any decision in substitution for the original decision that the authority could have made on the original application; or
 - (ii) confirm the original decision.
- (2) The 4 weeks mentioned in subsection (1) may be extended for a stated period by agreement between the planning and land authority and the applicant.
- (3) In reconsidering the original decision, the planning and land authority—
 - (a) need not give notice of the new application under section 229; but

- (b) must give written notice of the new application to anyone who objected to the grant of approval for the original application, allow the person reasonable time (that is not shorter than 2 weeks) to make a submission on the new application, and consider any submission made within the time allowed.
- (4) Also, in reconsidering the original decision, the planning and land authority—
- (a) must consider any information available to it when it made the original decision and information given in the new application; and
 - (b) may consider any other relevant information.

Examples of other relevant information

- 1 information from submissions by objectors
- 2 information from an assessment or panel ordered under s 236

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act 2001*, s 126 and s 132).

- (5) The planning and land authority must ensure that, if the original decision is made on its behalf by a person (the *original decision-maker*), the authority or someone other than the original decision-maker reconsiders the decision.

246B No action by planning and land authority within time

If the planning and land authority does not make a substitute decision, nor confirm the original decision, within the 4 weeks mentioned in section 246A, the planning and land authority is taken to have confirmed the original decision.

246C Notice of decision on reconsideration

- (1) As soon as practicable after reconsidering the original decision, the planning and land authority must give written notice of the decision

on the reconsideration to the applicant and anyone who was given notice of the new application under section 246A (3) (b).

- (2) The notice must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

Subdivision 6.2.5 Approvals—miscellaneous

[1.108] Section 247 (1)

omit

the relevant authority who gave the approval

substitute

the planning and land authority

[1.109] Section 248

omit

If the relevant authority who gave an approval is satisfied that the approval contains a formal error, the authority shall—

substitute

If the planning and land authority is satisfied that an approval contains a formal error, the authority must—

[1.110] Section 249

substitute

249 When approvals take effect

- (1) This section is subject to sections 230 (4) and 245 (3) (d).

Note Section 230 (4) prevents an approval of a development application for an activity not permitted by the lease from taking effect until the lease is varied. Section 245 (3) (d) allows a condition to be included in an

application for approval that the approval does not take effect until a specified approval is given, amended or varied.

- (2) An approval under section 230 (Approvals) takes effect—
- (a) if no objection to the relevant application has been made under section 237—on the day the approval is given; or
 - (b) if an objection to the relevant application has been made under section 237 and no application has been made to the AAT for review of the decision within 4 weeks after the day of the decision—on the day after the end of the period of 4 weeks; or
 - (c) if application is made to the AAT for a review of the decision to grant the approval and the tribunal decides to confirm the decision (whether or not a condition is varied, omitted or imposed)—on the day the tribunal makes its decision.

- (3) An approval on reconsideration under division 6.2.4 takes effect on the day the decision granting the approval is given.
- (4) However, the operation of an approval mentioned in subsection (2) (a) or (3) is stayed if application is made to the AAT for review of the decision to grant the approval.
- (5) The stay of the operation of the approval remains in force until the application for review is decided by the tribunal.

[1.111] New section 251 (1) (c)

omit

the date of the approval.

substitute

the day the approval takes effect.

Note For when an approval takes effect, see section 249 (When approvals take effect).

[1.112] Section 253

omit

The Minister may revoke an approval—

substitute

A relevant authority may revoke an approval given by the authority—

[1.113] Section 254

omit

Minister

substitute

Environment Minister

[1.114] Section 256 (4BA) (a)

omit

Minister

substitute

Environment Minister

[1.115] Section 256 (4BA) (b)

omit

Minister

substitute

authority

[1.116] Section 256 (4C)

omit

the Minister must,

substitute

the authority must,

[1.117] Section 256 (6)

omit

the Minister is,

substitute

the authority is,

[1.118] Section 257 (1)

omit

the Minister shall

substitute

the authority must

[1.119] Section 257 (1) (e)

omit

Minister

substitute

authority

[1.120] Section 258

omit

Where the Minister or the Executive, by order, directs

substitute

If an order under section 256 has the effect of directing

[1.121] Section 259 (1) (a)

omit

Minister

substitute

authority

[1.122] Section 260 (2) and (3)

substitute

- (2) The planning and land authority must give the registrar-general—
- (a) a copy of any order of the kind mentioned in subsection (1);
and
 - (b) written notice of any revocation of such an order.

[1.123] Section 272 (1)

omit

to whom the Minister

substitute

whom the authority

[1.124] Division 6.5

omit

[1.125] Section 275

substitute

275 AAT review—general

- (1) A person whose interests are affected by a decision mentioned in schedule 4, part 4.1, column 4 may apply to the AAT for review of the decision.
- (2) A person mentioned in schedule 4, part 4.1, column 2 who makes a decision mentioned in column 4 of the item mentioning the person must give written notice to people whose interests the person believes are affected by the decision.
- (3) The notice under subsection (2) must comply with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

275A Approvals subject to entity's satisfaction

- (1) This section applies if—
 - (a) an approval given to a person contains a condition that a development is to be carried out to the satisfaction of an entity mentioned in the approval; and
 - (b) the entity decides that the development has not been carried out to its satisfaction.

Note Section 245 (3) (a) allows a relevant authority to impose a condition of the kind mentioned in s (1) (a).

- (2) The entity must give the person written notice of the decision.
- (3) The notice must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).
- (4) A person whose interests are affected by a decision mentioned in subsection (1) (b) may apply to the AAT for review of the decision.

[1.126] Section 276 (1)

substitute

- (1) A person who is qualified under subsection (1A) may apply to the AAT for review of a decision of the relevant authority to—
 - (a) approve an application under section 230 or 246A; or
 - (b) include a condition in an approval.

Note Section 245 deals with inclusion of conditions.

- (1A) A person is qualified to make an application under subsection (1) if—
 - (a) the person objected to the grant of the approval of the relevant application to undertake development under section 237; or
 - (b) the AAT is satisfied that the person had reasonable grounds for not objecting within the prescribed period.
- (1B) An application under subsection (1) must be made within 4 weeks after the day the person was notified of the decision.

[1.127] Section 276

renumber subsections when Act next republished under Legislation Act 2001

[1.128] Section 278 (1)

substitute

- (1) This section applies in relation to a decision mentioned in schedule 4, part 4.1.
- (1A) The person who made the decision must, as soon as practicable, tell each person who, under section 237, objected to the application in relation to which the decision was made, in writing, about the application to the tribunal.

[1.129] New section 278 (3)

insert

- (3) In this section:

applicant means—

- (a) for a decision mentioned in schedule 4, part 4.1, items 1 to 7—the applicant for the decision; or
- (b) for a decision mentioned in schedule 4, part 4.1 item 8—the person to whom the approval was granted.

[1.130] Section 278

renumber subsections when Act next republished under Legislation Act 2001

[1.131] Section 279A

omit

section 229A (7)

substitute

section 229B (6)

[1.132] Section 282 (1) (f)

omit

the Executive, a person or the Minister,

substitute

the Minister, the planning and land authority or anyone else,

[1.133] Part 6, further amendments, mentions of *Executive*

omit

Executive

substitute

planning and land authority

in the following provisions:

- section 226 (3) (b)
- section 250

[1.134] Part 6, further amendments, mentions of *Minister*

omit

Minister

substitute

planning and land authority

in the following provisions:

- section 226 (4) (b)
- section 227
- section 228 (1) and (2)
- section 229 (1) (1st mention)
- section 229 (2), (3), (4), (4A), (5) and (6B)
- section 231 (1) (a) (ii)
- section 232 (4)
- section 237 (1A) and (2)
- section 237 (3) (1st mention)

Schedule 1 Land (Planning and Environment) Act 1991
Part 1.5 Act, part 6 (Approvals and orders)

Amendment [1.135]

- section 238
- section 239 (1st mention)
- section 244 (1st mention)
- section 245 (3) (m)
- section 245 (4)
- section 252
- section 256 (1)
- section 256 (3) (1st mention)
- section 256 (4)
- section 256 (4A) (1st mention)
- section 256 (4B)
- section 256 (4BA) (1st mention)
- section 256 (4C) (1st mention)
- section 256 (6) (1st mention)
- section 257 (1) (1st mention)
- section 259 (1) (1st mention)
- section 259 (3)
- section 263
- section 264
- section 265
- section 272 (1) (1st mention)

[1.135] Part 6, further amendments, mentions of *relevant authority*

omit

relevant authority

substitute

planning and land authority

in the following provisions:

- section 231 (1)
- section 233
- section 234
- section 243 (2)
- section 247 (2) and (3)

Part 1.6 **Act, part 7 (Administrative appeals)**

[1.136] Section 282A

substitute

282A AAT review of decisions

- (1) Application may be made to the AAT for review of the following decisions:
 - (a) a decision mentioned in subsection (3) or (4);
 - (b) a decision not to register a place under section 69 (1) (b) or 73 (1) (b);
 - (c) a decision mentioned in schedule 4, part 4.2, column 4.
- (2) A person mentioned in schedule 4, part 4.2, column 2, who makes a decision mentioned in column 4 of the item in which the person is mentioned must give written notice to people whose interests the person believes are affected by the decision.

- (3) If the Environment Minister, under section 125 (5), fixes a maximum price for the sale by a proponent of a copy of a draft environmental impact statement, the Environment Minister must give written notice of the decision to the proponent.
- (4) If the planning and land authority decides to vary a land management agreement under a provision mentioned in section 186C (3), the authority must give written notice of the decision to the other party to the agreement.
- (5) A notice under subsection (2), (3) or (4) must comply with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

Part 1.7 Act, part 8 (Miscellaneous)

[1.137] Section 283

insert

Note Section 160B (Planning and land authority may grant leases) authorises the planning and land authority to grant leases on behalf of the Executive.

[1.138] Section 287A

substitute

287A Approved forms

- (1) The Minister may, in writing, approve forms for section 186C (Land management agreements).
- (2) The planning and land authority may approve forms for any other provision of this Act.
- (3) If a form is approved for a particular purpose, the form must be used for that purpose.

Note For other provisions about forms, see *Legislation Act 2001*, s 255.

- (4) A form approved for section 186C is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (5) A form approved for any other provision is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

Part 1.8 Act, part 9 (Transitional)

[1.139] New section 292

insert

292 Consent under City Area Leases Ordinance 1936—s 28

- (1) This section applies if a lessee has obtained the consent of the Minister under the *City Area Leases Ordinance 1936*, section 28 as in force at any time before 19 December 1973 to the assignment or transfer of a lease or an interest in the lease, either at law or in equity.
- (2) For section 180 (1) (Transfer of land subject to building and development provision), the consent is taken to be a consent under this Act, section 180 (2).
- (3) This section expires 1 year after it commences.
- (4) Subsections (1) and (2) are declared to be provisions to which the *Legislation Act 2001*, section 88 (Repeal does not end transitional or validating effect etc) applies.

Part 1.9 Insertion of schedule

[1.140] Schedule 4

insert

Schedule 4 **Decisions reviewable by AAT**

(see s 275, 282A)

Part 4.1 **Reviewable decisions under part 6**

column 1 item	column 2 decision-maker	column 3 section of Act	column 4 decision
1	planning and land authority	228 (2)	refusing to approve application
2	relevant authority	230	refusing to approve application
3	planning and land authority	233 (3)	refusing to grant extension of period
4	relevant authority	245	giving approval subject to condition
5	planning and land authority	245 (4)	refusing to approve amendment
6	planning and land authority	246A	refusing to approve application
7	planning and land authority	246A	giving approval subject to condition
8	planning and land authority	247 (2)	refusing to amend approval
9	planning and land authority	252 (2)	refusing to extend period

column 1 item	column 2 decision-maker	column 3 section of Act	column 4 decision
10	relevant authority	253	revoking approval

Part 4.2 Other reviewable decisions

column 1 item	column 2 decision-maker	column 3 section of Act	column 4 decision
1	heritage council	59 (3)	including provision in interim heritage places register
2	heritage council	59 (3)	refusing application for inclusion of provision in interim heritage places register
3	heritage council	62 (1) (b)	revision of interim heritage places register by removal of provision relating to entry
4	Minister	64	acquiring place or object
5	Minister	69 (1) (a)	directing heritage council to notify interim heritage places register
6	Minister	73 (1) (a)	directing heritage council to notify interim heritage places register
7	Minister	76 (1)	refusing to compensate
8	Minister	82 (1)	declaring information to be restricted information

Schedule 1 Land (Planning and Environment) Act 1991
Part 1.9 Insertion of schedule

Amendment [1.140]

column 1 item	column 2 decision-maker	column 3 section of Act	column 4 decision
9	heritage council	84 (2)	refusing to approve publication of restricted information about Aboriginal place
10	planning and land authority	167 (3)	deciding that person not eligible for grant of lease of specified class
11	planning and land authority	167 (5)	refusing to consent to assignment, transfer or subletting of lease or parting of possession of leasehold
12	planning and land authority	170 (1)	terminating person's right to grant of lease
13	planning and land authority	171 (2)	refusing to grant further residential lease
14	planning and land authority	171A (1)	refusing to grant further rural lease
15	planning and land authority	172 (2)	refusing to grant further lease other than residential or rural lease
16	planning and land authority	174 (2)	determining market value of improvements
17	planning and land authority	177 (3)	confirming variation of rent
18	planning and land authority	177 (3)	on review of variation of rent, substituting other variation

column 1 item	column 2 decision-maker	column 3 section of Act	column 4 decision
19	planning and land authority	178 (1)	refusing to authorise payment of amount
20	planning and land authority	179 (1)	refusing to issue certificate of compliance
21	planning and land authority	179 (2)	on application for certificate of compliance under s 179 (1)— issuing certificate that building and development condition partially complied with
22	planning and land authority	179 (2)	refusing to issue certificate that building and development condition partially complied with
23	planning and land authority	179 (2)	issuing certificate of compliance subject to condition under s 179 (3)
24	planning and land authority	180 (2)	refusing to consent to assignment or transfer of lease or interest in lease
25	planning and land authority	184A (2)	determining change of use charge for variation of nominal rent lease
26	planning and land authority	184C (1)	refusing to remit change of use charge for variation of nominal rent lease

Schedule 1 Land (Planning and Environment) Act 1991
Part 1.9 Insertion of schedule

Amendment [1.140]

column 1 item	column 2 decision-maker	column 3 section of Act	column 4 decision
27	planning and land authority	184C (1)	remitting change of use charge for variation of nominal rent lease by amount less than amount applied for
28	planning and land authority	184C (2)	increasing change of use charge for variation of nominal rent lease
29	planning and land authority	184D (2)	reappraising rent payable under rental lease
30	planning and land authority	186 (1) (d)	determining amount payable to reduce lease rent to nominal rent
31	planning and land authority	187A (2)	determining change of use charge for consolidation or subdivision
32	planning and land authority	187C (1)	refusing to remit change of use charge for consolidation or subdivision
33	planning and land authority	187C (1)	remitting change of use charge for consolidation or subdivision by amount less than amount applied for
34	planning and land authority	187C (2)	increasing change of use charge for consolidation or subdivision
35	planning and land authority	188 (1)	terminating lease

column 1 item	column 2 decision-maker	column 3 section of Act	column 4 decision
36	planning and land authority	188 (3)	terminating licence
37	planning and land authority	214 (1)	refusing consent to surrender of lease or part of leasehold
38	planning and land authority	214 (2)	accepting surrender of lease or part of leasehold subject to condition
39	planning and land authority	219 (1)	refusing to grant right to extract minerals

Part 1.10 Act, dictionary

[1.141] Dictionary, note 2

insert

- AAT

[1.142] Dictionary, definition of *authority*

omit

[1.143] Dictionary, definition of *commissioner*

omit

[1.144] Dictionary, new definitions

insert

new application, for subdivision 6.2.4 (Reconsideration of applications for approval)—see section 245A.

original application, for subdivision 6.2.4 (Reconsideration of applications for approval)—see section 245A.

Schedule 1 Land (Planning and Environment) Act 1991
Part 1.10 Act, dictionary

Amendment [1.144]

original decision, for subdivision 6.2.4 (Reconsideration of applications for approval)—see section 245A.

Schedule 2 Land (Planning and Environment) Regulations 1992

(see s 4)

[2.1] Regulation 25 (2)

omit

Minister shall

substitute

planning and land authority must

[2.2] Regulation 35 (2)

omit

Minister shall

substitute

planning and land authority must

[2.3] Regulation 36 (2)

omit

Minister shall

substitute

planning and land authority must

[2.4] Regulation 39 (1)

omit

section 226

substitute

section 230

[2.5] Regulation 39 (2)

omit

226 (5)

substitute

226 (9)

[2.6] Schedule 6, item 2

omit

229A (7) (d)

substitute

229B (6) (c)

[2.7] Schedule 7, item 2

omit

229A (7) (d)

substitute

229B (6) (c)

[2.8] Further amendments, mentions of *Executive*

omit

Executive

substitute

planning and land authority

in the following provisions:

- regulation 11

- schedule 1, item 4

[2.9] Further amendments, mentions of *Minister*

omit

Minister

substitute

planning and land authority

in the following provisions:

- regulation 16 (1)
- regulation 17
- regulation 18
- regulation 19 (1)
- regulation 21 (3)
- regulation 22
- regulation 23 (1)
- regulation 24 (2)
- regulation 28
- regulation 29
- regulation 30 (1)
- regulation 32 (3)
- regulation 33 (2)
- regulation 34 (2)
- regulation 41
- schedule 1, item 24
- schedule 4, items 7 and 8

[2.10] Further amendments, further mentions of *Minister*

omit

Minister

substitute

relevant authority

in the following provisions:

regulation 39 (1) (a) (ii) and (iii)

- regulation 39 (1) (b) (ii) and (iii)
- regulation 39 (1) (c) (ii), (iii), (iv) and (v)
- regulation 39 (1) (d) (ii), (iii), (iv) and (v)

Schedule 3 Other Acts and regulations

(see s 4)

Part 3.1 Building Act 1972

[3.1] Section 5 (1), new definition of *lease*

substitute

lease—see Land Act, section 159.

[3.2] Section 5 (1), definition of *Territory planning authority*

omit

[3.3] Section 9 (5)

omit

Minister

substitute

planning and land authority

[3.4] Section 44 (4)

omit

Territory planning authority

substitute

planning and land authority

[3.5] Section 46 (3)

omit

Territory planning authority

substitute

planning and land authority

[3.6] Section 53AB (1) (a) (iii), (3) and (4)

omit

for a term of years

[3.7] Section 54B (1) (a) and (b)

substitute

- (a) is on land held under a lease or tenancy from the Commonwealth by a person other than the Territory; or
- (b) is on land held under a sublease or tenancy from the Territory.

[3.8] Section 74 (2)

omit

the Minister's

[3.9] Section 78 (2), (3) and (4)

substitute

- (2) If the planning and land authority proposes to suspend or cancel the approval of the scheme, the authority must give the trustees of the scheme a written notice—
 - (a) stating the grounds on which the authority proposes to suspend or cancel the approval; and
 - (b) stating the facts that, in the authority's opinion, establish the grounds; and
 - (c) telling the trustees that the trustees may, within a stated reasonable time, give a written response to the authority about the matters in the notice.
- (3) If, after considering any response given under subsection (2) (c), the planning and land authority is satisfied that the grounds for

suspending or cancelling the approval have been established, the authority may, in writing, suspend or cancel the approval.

- (4) If the planning and land authority suspends or cancels an approval, the authority must give written notice of the suspension or cancellation to the trustees.

[3.10] Section 79 (1) and (2)

substitute

- (1) The planning and land authority may, in writing, cancel the approval of an approved scheme if the trustees of the scheme ask the authority, in writing, to do so.
- (2) If the planning and land authority cancels the approval, the authority must give written notice of the cancellation to the trustees.

[3.11] Section 80 (1)

substitute

- (1) If the planning and land authority suspends or cancels the approval of a fidelity fund scheme under this division, the authority may apply to the Supreme Court for orders to give effect to, or consequential on, the suspension or cancellation.

[3.12] Section 83 (3) and (4)

substitute

- (3) The planning and land authority must give the trustees notice of the authority's decision to approve or refuse to approve the appointment.
- (4) If the planning and land authority refuses to approve an appointment, the notice must include the reasons for the refusal.

[3.13] Section 89 heading

substitute

**89 Giving of information to authority by auditor or actuary
etc**

[3.14] Section 89 (2)

substitute

- (2) The person may give information to the planning and land authority about the approved scheme if the person considers that giving information will assist the authority to exercise the authority's functions under this part.

[3.15] Further amendments, mentions of *Minister*

omit

Minister

substitute

planning and land authority

in the following provisions:

- section 25 (1)
- section 67
- section 68 (1)
- section 68 (2) (1st mention)
- section 68 (3)
- section 69
- section 72 (1)
- section 73
- section 76
- section 77 (1) (1st mention)
- section 78 (1)

- section 81
- section 82 (3) (a)
- section 83 (1) and (2)
- section 84
- section 88
- section 86
- section 89 (3) (1st mention)
- section 89 (5)
- section 92
- section 93 (1) (1st mention)
- section 93 (3)
- section 93 (4) (1st mention)
- section 93 (5) (b)
- section 93 (7) (1st mention)
- section 94 (1) (a)
- section 95

[3.16] Further amendments, mentions of *Minister*

omit

Minister

substitute

authority

in the following provisions:

- section 68 (2) (2nd mention)
- section 68 (2) (a)

- section 77 (1) (2nd mention)
- section 89 (3) (2nd mention)
- section 93 (1) (b)
- section 93 (4) (2nd mention)
- section 93 (7) (a) and (b)

Part 3.2 Common Boundaries Act 1981

[3.17] Division 2.2 heading

substitute

Division 2.2 Fences required by authority

[3.18] Section 26 (b)

omit

Minister

substitute

authority

[3.19] Further amendments, mentions of *Minister*

omit

Minister

substitute

planning and land authority

in the following provisions:

- section 23
- section 24

- section 26 (a)
- section 28

Part 3.3 Community Title Act 2001

[3.20] Section 13 (1) (b)

omit

(in the Minister's opinion)

substitute

(in the opinion of the planning and land authority)

[3.21] Section 21 (2)

substitute

- (2) The planning and land authority may refuse to approve an application under the Land Act, part 6 (Approvals and orders) for approval to carry out an activity needed for the development of a stage of the scheme if an earlier stage of the scheme has not been finished as required by the scheme.

[3.22] Section 23 heading

substitute

23 Authorisation of amendment

[3.23] Section 24

omit

(Ministerial authorisation)

substitute

(Authorisation of amendment)

[3.24] Section 25 (2) (b)

substitute

- (b) the authorisation of the amendment under section 23 (Authorisation of amendment); and

[3.25] Section 28 (2) (d)

substitute

- (d) the Minister;
(e) the planning and land authority.

[3.26] Section 89 (6) (b)

substitute

- (b) the Minister;
(c) the planning and land authority.

[3.27] Further amendments, mentions of *Minister*

omit

Minister

substitute

planning and land authority

in the following provisions:

- section 8 (1)
- section 9
- section 10
- section 11 (1st mention)
- section 12 (1st mention)
- section 13 (2) and (4)

- section 14 (1st mention)
- section 15 (2)
- section 16 (2)
- section 22
- section 23
- section 24 (2)
- section 64 (a) and (b) (i)
- section 65 (b)
- section 81
- section 93
- section 94 (1st mention)
- section 97

[3.28] Further amendments, mentions of *Minister*

omit

Minister

substitute

authority

in the following provisions:

- section 11 (2nd mention)
- section 12 (2nd mention)
- section 14 (2nd mention)
- section 64 (b) (ii)
- section 94 (2nd mention)

Part 3.4 Electoral Act 1992

[3.29] Section 39 (3) (b)

substitute

(b) the planning and land authority; and

Part 3.5 Energy Efficiency Ratings (Sale of Premises) Act 1997

[3.30] Section 3, definition of *energy efficiency rating statement*, paragraph (a)

omit

planning authority

substitute

planning and land authority

Part 3.6 Environment Protection Act 1997

[3.31] Sections 21A (3) (a) and 164 (2)

omit

planning authority

substitute

planning and land authority

Part 3.7 **Gungahlin Development Authority Act 1996**

[3.32] Section 7 (1) (d)

omit

maintenance; and

substitute

maintenance.

[3.33] Section 7 (1) (e)

omit

Part 3.8 **Heritage Objects Act 1991**

[3.34] Section 4 (1), definition of *authority*

omit

Part 3.9 **Housing Assistance Act 1987**

[3.35] Section 9 (1) (a)

substitute

- (a) to hold land on lease from the Commonwealth, whether the lease is granted to the commissioner directly or is transferred to the commissioner by the previous holder of the lease; and

[3.36] Section 16 (5)

omit

to the Executive.

substitute

to the planning and land authority.

[3.37] Section 17 (2)

omit

under the *Leases Act 1918* as

[3.38] Section 17 (5), definition of *unleased land*

omit

under the *Leases Act 1918*

Part 3.10 Lands Acquisition Act 1994

[3.39] Section 115

omit

[3.40] Further amendments, mentions of *Minister*

omit

Minister

substitute

planning and land authority

in the following provisions:

- section 50 (1) (d)
- section 103 (4)
- section 113

Part 3.11 Land Titles Act 1925

[3.41] Section 72A (1)

substitute

-
- (1) If the planning and land authority has executed a variation of a Crown lease under the Land Act, the authority must lodge a copy of the variation with the registrar-general.

Part 3.12 **Land Titles (Unit Titles) Act** **1970**

[3.42] Section 7 (2)

omit

the chief executive of the administrative unit responsible for the administration of the *Unit Titles Act 2001*

substitute

the planning and land authority

[3.43] Section 29

substitute

29 Registration of instruments granting further leases

- (1) This section applies if the planning and land authority grants further leases under the *Land (Planning and Environment) Act 1991*, section 171, 171A or 172 of the units and the common property forming part of a registered units plan.
- (2) On lodgment of the instruments granting the leases, the registrar-general must—
- (a) register the instruments; and
 - (b) write on the units plan the memorials necessary to show that the further leases have been granted, and the date of the end of their terms.

Part 3.13 Legislation Act 2001

[3.44] Dictionary, part 1.1, new definition of *chief planning executive*

insert

chief planning executive—see the *Planning and Land Act 2002*, dictionary.

[3.45] Dictionary, part 1.1, definition of *commissioner for land and planning*

omit

[3.46] Dictionary, part 1.1, new definition of *land development agency*

insert

land development agency means the Land Development Agency established under the *Planning and Land Act 2002*, section 38 (1).

[3.47] Dictionary, part 1.1, new definition of *planning and land council*

insert

planning and land council means the Planning and Land Council established under the *Planning and Land Act 2002*, section 25.

[3.48] Dictionary, part 1.1, definition of *planning authority*

substitute

planning and land authority means the Planning and Land Authority established under the *Planning and Land Act 2002*, section 7 (1).

must be accompanied by a certificate by the planning and land authority that, in its opinion,

[3.54] Section 14B (e)

omit

a certificate by the relevant chief executive that, in his or her opinion,

substitute

must be accompanied by a certificate by the planning and land authority that, in its opinion,

[3.55] Section 57 (2)

omit

relevant chief executive

substitute

planning and land authority

[3.56] Dictionary, definition of *relevant chief executive*

omit

Part 3.16 Unit Titles Act 2001

[3.57] Section 21 (1)

substitute

- (1) If the planning and land authority considers that the rent proposed in a unit title application to be reserved for the lease of 1 or more units is not reasonable in the circumstances, the authority must determine what rent is reasonable for the relevant unit or units.

[3.58] Section 21 (2)

omit

Minister's

substitute

planning and land authority's

[3.59] Section 21 (3)

substitute

- (3) If the total rent for all units, worked out in accordance with the planning and land authority's determination, equals the rent payable under the lease of the parcel when the determination is made, a decision (under part 14 (Administrative review)) on an objection or review of the authority's determination must not change the total amount.

[3.60] Section 22

substitute

22 Unit title applications—amendment of development statement by authority

If a unit title application provides for a staged development, the planning and land authority may, before approving the application under section 20, amend the development statement if the authority considers it reasonable to do so to minimise the adverse effect of the development on anyone's amenity while it is taking place.

Examples of people whose amenity may be affected

- 3 owners or occupiers of units
- 4 owners or occupiers of nearby premises
- 5 members of the public who regularly use the surrounding area

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act 2001*, s 126 and s 132).

[3.61] Section 23 (1)

omit everything before paragraph (a), substitute

- (1) If the planning and land authority approves a unit title application for a parcel, the authority must give the lessee of the parcel—

[3.62] Section 24 (1) (b)

omit

Minister's

substitute

planning and land authority's

[3.63] Section 27 (1)

omit everything before paragraph (a), substitute

- (1) If the planning and land authority has approved a unit title application, the lessee of the parcel may submit to the authority for endorsement under this section a units plan consisting of the following documents:

[3.64] Section 29 (3)

omit everything before paragraph (a), substitute

- (3) The planning and land authority may amend the development statement despite the applicant's failure to obtain an interested person's agreement if the authority is satisfied on reasonable grounds that—

[3.65] Section 29 (4)

substitute

- (4) The planning and land authority may refuse to amend the development statement if, in the authority's opinion based on reasonable grounds, the amendment would result in the development having a significantly adverse effect on anyone's amenity while it is taking place.

Examples of people whose amenity may be affected

6 owners or occupiers of units

- 7 owners or occupiers of nearby premises
- 8 members of the public who regularly use the surrounding area

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act 2001*, s 126 and s 132).

[3.66] Section 30 (3)

omit everything before paragraph (a), substitute

- (3) The planning and land authority may amend the development statement despite the applicant's failure to obtain an interested nonvoter's agreement if the authority is satisfied on reasonable grounds that—

[3.67] Section 30 (4)

substitute

- (4) The planning and land authority may refuse to amend the development statement if, in the authority's opinion based on reasonable grounds, the amendment would result in the development having a significantly adverse effect on anyone's amenity while it is taking place.

Examples of people whose amenity may be affected

- 9 owners or occupiers of units
- 10 owners or occupiers of nearby premises
- 11 members of the public who regularly use the surrounding area

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act 2001*, s 126 and s 132).

[3.68] Section 154 (3) (b) (ii)

substitute

- (ii) a copy of the certificate mentioned in subsection (1) (b) (ii).

[3.69] Section 154 (4)

substitute

- (4) On application by the applicant for the provisional damage order, if the planning and land authority is satisfied that approval under this Act or any other relevant Territory law for the unit redevelopment would still have been given if the proposals for the subdivision of the parcel under this Act, or any other relevant development proposals, had shown the units plan as it is proposed to be altered by the unit redevelopment, the authority must give the applicant a certificate to that effect.

Note 1 A fee may be determined under s 179 (Determination of fees) for this section.

Note 2 If a form is approved under s 180 (Approved forms) for an application, the form must be used.

[3.70] Section 167

substitute

167 Lease variation—amendment of schedule of unit entitlement

- (1) On the variation of the lease of a unit, the planning and land authority may, by written notice to the registrar-general, direct that the schedule of unit entitlement be amended if the authority considers it necessary to do so to reflect accurately any change in the relative improved values of the units because of the variation.
- (2) On the registration of the planning and land authority's direction to amend the schedule of unit entitlement, the units plan is amended accordingly.

[3.71] Section 170 (2) (c)

substitute

- (c) all those easements are enforceable by and against the planning and land authority as if the authority were the owner of the unit; and

[3.72] Section 173 (3)

substitute

- (3) However, the planning and land authority is not required to notify a person with an interest in a parcel, or an interested nonvoter, of a reviewable decision if the authority is not, and could not reasonably be, aware of the person's interest because of the process of reaching the decision.

[3.73] Section 185

omit

[3.74] Dictionary, definition of *development statement*

substitute

development statement means a statement about a staged development, accompanying a unit title application (as amended under section 22 (Unit title applications—amendment of development statement by authority), or amended under section 29 (Amendment of development statements before registration) or section 30 (Amendment of development statements after registration)).

[3.75] Further amendments, mentions of *Minister*

omit

Minister

substitute

planning and land authority

in the following provisions:

- section 17 (1)
- section 20 (1) to (4)
- section 20 (5) (1st mention)
- section 23 (2)
- section 24 (2) and (4)
- section 27 (3) (1st mention)
- section 28
- section 29 (1) and (2)
- section 29 (5)
- section 30 (1)
- section 30 (2) (1st mention)
- section 30 (5) (a)
- section 51 (7)
- section 91 (1) (d)
- section 146
- section 149
- section 154 (1) (b) and (3) (b) (i)
- section 155
- section 160
- section 163 (1) (c)
- section 166 (3)
- section 171 (1)
- section 173 (1) and (2)

- section 174
- section 175 (2)
- section 180
- section 186 (1)
- dictionary, definition of *eligible person*, paragraph (d)

[3.76] Further amendments, mentions of *Minister*

omit

Minister

substitute

authority

in the following provisions:

- section 20 (5) (a)
- section 23 (1) (a) (i)
- section 27 (3) (a) and (c)
- section 30 (2) (a)
- section 30 (5) (b)
- section 170 (2) (d)

Part 3.17 Unit Titles Regulations 2001

[3.77] Regulation 8 (c)

substitute

- (c) include a requirement that after the completion of any stated stages of the development, and after the completion of the entire development, the planning and land authority is to be

provided with a report by a registered surveyor about the position of fully or partially completed buildings in relation to the boundaries of the units and of the parcel.

Note If a form is approved under the Act, s 180 (Approved forms) for a report, the form must be used.

[3.78] Regulation 9 (1)

omit everything before paragraph (a), substitute

- (1) If the planning and land authority approves a unit title application, the authority must—

[3.79] Further amendments, mentions of *Minister*

omit

Minister

substitute

planning and land authority

in the following provisions

- regulation 3
- regulation 8, note 1
- regulation 18
- regulation 20
- schedule 2, clause 1
- schedule 3, clauses 1 (2) and 2

Part 3.18 **Utilities (Telecommunications Installations) Act 2001**

[3.80] Section 6

omit

planning authority

substitute

planning and land authority

Endnotes

Republications of amended laws

- 1 For the latest republications of amended laws, see www.legislation.act.gov.au.

Penalty units

- 2 The *Legislation Act 2001*, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

[Presentation speech made in Assembly on 26 September 2002]

I certify that the above is a true copy of the Planning and Land (Consequential Amendments) Bill 2002 which was passed by the Legislative Assembly on 12 December 2002.

Clerk of the Legislative Assembly

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