



Australian Capital Territory

Planning and Development (University of Canberra and Other Leases) Legislation Amendment Act 2015

A2015-19

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Australian Capital Territory

Planning and Development (University of Canberra and Other Leases) Legislation Amendment Act 2015

A2015-19

An Act to amend legislation about the subleasing of land under certain perpetual leases, and for other purposes

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

J2014-643

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 1 Preliminary

1 Name of Act

This Act is the *Planning and Development (University of Canberra and Other Leases) Legislation Amendment Act 2015*.

2 Commencement

This Act commences on a day fixed by the Minister by written notice.

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

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see [Legislation Act](#), s 79).

3 Legislation amended

This Act amends the following legislation:

- [Building Act 2004](#)
- [Building \(General\) Regulation 2008](#)
- [Common Boundaries Act 1981](#)
- [Community Title Act 2001](#)
- [Duties Act 1999](#)
- [Environment Protection Act 1997](#)
- [Environment Protection Regulation 2005](#)
- [First Home Owner Grant Act 2000](#)
- [Land Tax Act 2004](#)
- [Land Titles Act 1925](#)
- [Land Titles \(Unit Titles\) Act 1970](#)

- *Leases (Commercial and Retail) Act 2001*
- *Legislation Act 2001*
- *Planning and Development Act 2007*
- *Planning and Development Regulation 2008*
- *Public Unleased Land Act 2013*
- *Rates Act 2004*
- *Unit Titles Act 2001*
- *Unit Titles (Management) Act 2011*
- *Unit Titles Regulation 2001*
- *Utilities Act 2000*
- *Water and Sewerage Act 2000*
- *Water and Sewerage Regulation 2001*
- *Water Resources Act 2007.*

Part 2 Building Act 2004

4 Dictionary, new definition of *land sublease*

insert

land sublease—see the [Planning and Development Act 2007](#), dictionary.

5 Dictionary, definition of *owner*, new paragraph (h)

insert

(h) if the land is under a land sublease—the sublessee.

6 Dictionary, new definition of *parcel*

insert

parcel, of land, includes land under a land sublease.

Part 3 Building (General) Regulation 2008

7 General requirements for plans—Act, s 27 (1) (a) Section 16 (2) (g)

substitute

- (g) for the parcel of land where the work is to be done—include a site plan on a scale of not less than 1:200 showing—
- (i) the block and section number of the land (or for land under a land sublease, the sublease plan number); and
 - (ii) the boundaries and dimensions of the land; and

8 Dictionary, note 3

insert

- land sublease
- parcel (of land)

Part 4 Common Boundaries Act 1981

9 When land is a *parcel of land* New section 2A (aa)

insert

- (aa) the land is held by a person under a land sublease; or

10 Dictionary, new definition of *land sublease*

insert

land sublease—see the [Planning and Development Act 2007](#), dictionary.

11 Dictionary, definition of *parcel of land*

substitute

parcel of land—

- (a) for this Act generally—includes land held under a land sublease; and
- (b) for division 2.1 (Fences requested by occupiers)—see section 2A and section 2B.

Part 5 Community Title Act 2001

12 Community title scheme proposal—application for approval New section 8 (2) (c)

insert

- (c) if the application relates to land under a declared land sublease and—
- (i) the developer is not the sublessee—the sublessee; and
 - (ii) the developer is not the Crown lessee—the Crown lessee.

13 Amendment by the Supreme Court Section 27 (1), definition of *interested person*, new paragraph (ca)

insert

- (ca) for scheme land under a declared land sublease—the Crown lessee;

14 Injunction Section 28 (2), definition of *interested person*, new paragraph (ba)

insert

- (ba) for scheme land under a declared land sublease—the Crown lessee;

15 Dictionary, new definitions

insert

Crown lease—see the [Land Titles Act 1925](#), dictionary.

Crown lessee, in relation to a declared land sublease, means the lessee under the Crown lease under which the sublease is granted.

declared land sublease—see the *Planning and Development Act 2007*, section 312C.

land sublease—see the *Planning and Development Act 2007*, dictionary.

16 Dictionary, definition of *lot*

substitute

lot—

- (a) means a parcel of land for which a certificate of title has been issued under the *Land Titles Act 1925*; but
- (b) does not include a land sublease other than a declared land sublease.

Part 6 Duties Act 1999

17 Imposition of duty on certain transactions concerning dutiable property New section 7 (1) (b) (iiia)

insert

(iiia) a grant of a declared land sublease;

18 Section 7 (3), definition of *grant*

substitute

grant—

- (a) of a Crown lease over land, includes the grant of a new lease following the surrender or determination of the Crown lease over land that includes part or all of the land over which the new lease is granted; and
- (b) of a declared land sublease, includes the grant of a new land sublease following the surrender or determination of the sublease over land that includes part or all of the land over which the new sublease is granted.

19 Imposition of duty on dutiable transactions that are not transfers Table 8, item 3, columns 2 and 5

after

lease

insert

(or declared land sublease)

20 Table 8, item 3, column 4*after*

lessee

insert

(or for a declared land sublease, the sublessee)

**21 Dutiable property
New section 10 (1) (ba)***insert*

(ba) a declared land sublease;

22 Section 10 (1) (g)*after*

Crown lease

insert

or declared land sublease

**23 What is the consideration for the transfer of dutiable
property?
Section 21 (3)***substitute*

- (3) If a Crown lease, or declared land sublease, is granted subject to a requirement that the lessee, or sublessee, carry out, or cause to be carried out, works on land other than the land the subject of the lease, or sublease, the cost of carrying out the works is taken to form part of the consideration for the lease or sublease.

**24 Refund if Crown lease surrendered
New section 52 (6)**

insert

- (6) This section applies to a declared land sublease as if—
- (a) it were a Crown lease; and
 - (b) any amount paid to the sublessee by the sublessor under the terms of the sublease because of the surrender or termination of the sublease were an amount refunded under the *Planning and Development Act 2007*, section 300.

**25 Surrender and regrant of Crown lease
New section 68 (4)**

insert

- (4) This section applies to a declared land sublease as if it were a Crown lease.

**26 Regrant of lease with additional land
New section 68A (2)**

insert

- (2) This section applies to a declared land sublease as if it were a Crown lease.

27 Dictionary, definition of *Crown lease* and note

substitute

Crown lease—see the *Land Titles Act 1925*, dictionary.

28 Dictionary, new definition of *declared land sublease*

insert

declared land sublease—see the [Planning and Development Act 2007](#), section 312C.

Part 7 Environment Protection Act 1997

29 Duty to notify existence of contaminated land Section 23A (1)

omit everything before paragraph (a), substitute

- (1) A relevant person in relation to land must notify the authority, in writing, as soon as practicable after becoming aware that the land is contaminated in such a way as to present, or to be likely to present—

30 Section 23A (2)

before

person

insert

relevant

31 New section 23A (3)

insert

- (3) In this section:

relevant person, in relation to land, means—

- (a) the occupier of the land; or
- (b) if the occupier is not the lessee—the lessee; or
- (c) if the land is land under a land sublease and the occupier is not the sublessee—the sublessee.

**32 Application
Section 47 (3)**

omit

parcel of land

substitute

land (or for land under a land sublease, the sublessee)

33 Section 47 (3) (a)

substitute

(a) if the land is leased—

(i) the lessee; or

(ii) for land under a land sublease—the sublessee and sublessor; or

Note A sublessor, under a land sublease, is the lessee under the Crown lease under which the sublease is granted.

**34 Order to remediate land
Section 91D (3) (a)**

omit

an occupier is not the lessee of that land, serve notice on the lessee;

substitute

an occupier is not—

(i) the lessee of the land—serve notice on the lessee; or

(ii) for land under a land sublease, the sublessee—serve notice on the sublessee;

35 Section 91D (8)

after

lessee

insert

(or for land under a land sublease, the sublessee)

**36 Notification of certain people about orders for assessment or remediation
Section 91E (1)**

omit

occupier and, if the occupier is not the lessee, the lessee, of

substitute

relevant person in relation to

37 New section 91E (3)

insert

(3) In this section:

relevant person, in relation to land, means—

- (a) the occupier of the land; and
- (b) if the occupier is not the lessee—the lessee; and
- (c) if the land is land under a land sublease and the occupier is not the sublessee—the sublessee.

**38 Choice of appropriate person
Section 91I (1) (b)**

substitute

(b) either—

- (i) a lessee of the land (whether or not the person had any responsibility for the contamination of the land with the substance) or if that is not practicable, the person mentioned in paragraph (c); or
- (ii) if the land is land under a land sublease—the sublessee of the land (whether or not the person had any responsibility for the contamination of the land with the substance) or if that is not practicable, the following people in the following order:
 - (A) the sublessor of the land (whether or not the person had any responsibility for the contamination of the land with the substance);
 - (B) the person mentioned in paragraph (c);

Note A sublessor, under a land sublease, is the lessee under the Crown lease under which the sublease is granted

39 Section 91I (4), definition of *notional lessee*

after

lease

insert

(or land sublease)

40 Section 91I (4), definition of *notional lessee*, paragraph (c) (ii)

after 1st mention of

lessee

insert

(or for land under a land sublease, the sublessee)

41 Section 91I (4), definition of *notional lessee*, paragraph (c) (ii)

after 2nd mention of

lessee

insert

(or sublessee)

**42 Liability for losses
New section 91O (5)**

insert

- (5) For this section, if land is land under a land sublease, *lessee* means the sublessor and sublessee.

Note A sublessor, under a land sublease, is the lessee under the Crown lease under which the sublease is granted

**43 Environment protection orders
Section 125 (2) and (3)**

omit

occupier of the land and, if the occupier is not the lessee, on the lessee

substitute

relevant person in relation to the land

44 New section 125 (7)

insert

(7) In this section:

relevant person, in relation to land, means—

- (a) the occupier of the land; and
- (b) if the occupier is not the lessee—the lessee; and
- (c) if the land is land under a land sublease and the occupier is not the sublessee—the sublessee.

45 Schedule 1, table 1.2, item 7, column 2

after

lessee

insert

(or for land under a land sublease, the sublessee)

46 Dictionary, new definition of *land sublease*

insert

land sublease—see the [Planning and Development Act 2007](#), dictionary.

Part 8 Environment Protection Regulation 2005

47 Dictionary, note 3

insert

- land sublease

48 Dictionary, definition of *owner*

substitute

owner, of land, includes—

- (a) a lessee; and
- (b) for land under a land sublease—the sublessee.

49 Dictionary, new definition of *parcel*

insert

parcel, of land under a territory lease, includes land under a land sublease.

Part 9 First Home Owner Grant Act 2000

50 Ownership of land and homes New section 5 (2) (aa)

insert

(aa) a leasehold interest under a land sublease;

51 New section 5 (6)

insert

(6) In this section:

land sublease—see the [Planning and Development Act 2007](#), dictionary.

Part 10 Land Tax Act 2004

52 Dictionary, new definition of *land sublease*

insert

land sublease—see the [Planning and Development Act 2007](#), dictionary.

53 Dictionary, definition of *owner*, new paragraph (e)

insert

(e) for a parcel held under a land sublease—the sublessee.

Part 11 Land Titles Act 1925

54 Section 72D

substitute

72D Memorial of application of certain provisions etc under Planning and Development Act 2007

- (1) If the planning and land authority tells the registrar-general that any of the following provisions or things under the *Planning and Development Act 2007* apply to a lease, the registrar-general must enter in the register a memorial to that effect:
 - (a) section 251 (Restrictions on dealings with certain leases);
 - (b) a declaration under section 312B (Declared Crown leases).
- (2) The registrar-general must enter in the register—
 - (a) for a declared land sublease—a memorial that it is a declared land sublease under the *Planning and Development Act 2007*, section 312C; and
 - (b) for a lease of a unit or common property under a units plan that subdivides land under a declared land sublease—a memorial that the lease is over land under a declared land sublease; and
 - (c) for land under a scheme under the *Community Title Act 2001* that subdivides land under a declared land sublease—a memorial that the land is land under a declared land sublease.

55 Surrender of lease Section 86 (4) (b)

substitute

- (b) accompanied by the notice and evidence of resolution of the owners corporation mentioned in the *Unit Titles Act 2001*, section 167A (2) (c) (i).

**56 Lessee may sublet
Section 88 (1), new note**

before note 1, insert

Note 1A A sublease of land must be approved by the planning and land authority (see *Planning and Development Act 2007*, s 308 and this Act, s 88B).

57 New sections 88A to 88J

insert

88A Application of land sublease provisions

- (1) Section 88B to section 88J do not apply to—
 - (a) a sublease of land granted before the commencement of this section; or
 - (b) if a units plan subdivides a parcel of land under a declared land sublease—a lease granted or arising under the *Unit Titles Act 2001*.

Note **Land sublease** does not include a **building lease** (see *Planning and Development Act 2007*, s 308 and this Act, s 88B).

- (2) Nothing in this Act, by itself, creates an obligation on the sublessor under a land sublease to grant the sublessee a further or new sublease.

Note The *Unit Titles Act 2001*, s 167AA provides for the grant of further leases of units and common property if a declared land sublease is subdivided by a units plan.

88B Land subleases—registration

The registrar-general must not register a sublease of land unless the sublease has been approved, in writing, by the planning and land authority under the *Planning and Development Act 2007*, section 308 (Power of Crown lessee to sublet part of land).

Note This section does not apply to a building sublease (see *Planning and Development Act 2007*, dict, def *land sublease*).

88C Land subleases—mortgages

- (1) A mortgage of land under a land sublease is not valid or binding against the sublessor, or the sublessor's mortgagee (if any), unless the sublessor and the sublessor's mortgagee consent, in writing, to the mortgage.

Note This section does not apply to a building sublease (see *Planning and Development Act 2007*, dict, def *land sublease*).

- (2) In this section:

mortgage includes an encumbrance.

mortgagee includes an encumbrancee.

88D Land subleases—transfers

- (1) The registrar-general must not register a memorandum of transfer of a land sublease unless—
 - (a) the sublessor consents, in writing, to the transfer; and
 - (b) the registrar-general tells the planning and land authority, in writing, about the transfer.

Note This section does not apply to a building sublease (see *Planning and Development Act 2007*, dict, def *land sublease*).

- (2) For subsection (1) (a)—
- (a) the sublessee must request the sublessor's consent in writing; and
 - (b) within 10 working days after receiving the request, or any longer period agreed by the sublessee and sublessor, the sublessor may, in writing, ask the sublessee to give the sublessor information about the following:
 - (i) the proposed transferee's financial standing, including details of any approved finance of the proposed transferee;
 - (ii) the proposed use of the land under the sublease by the proposed transferee;
 - (iii) the proposed transferee's ability to comply with the conditions of the sublease; and
 - (c) if the sublessor has mortgaged the land under the Crown lease and the consent of the sublessor's mortgagee is required under the mortgage to the transfer of a sublease of the land—
 - (i) the sublessor must—
 - (A) tell the sublessor's mortgagee that the request by the sublessee has been made and of the terms of the request; and
 - (B) if asked by the mortgagee—ask the sublessee for the information mentioned in paragraph (b) and give the information to the mortgagee; and
 - (ii) the sublessor's mortgagee must consent or refuse consent (including reasons for the refusal), in writing, to the sublessor and the sublessee within 10 working days after—
 - (A) being told about the sublessee's request; or

- (B) if the mortgagee asks for information under paragraph (c) (i) (B)—receiving the information; and
- (iii) the sublessor must consent or refuse consent (including reasons for the refusal), in writing, to the sublessee; and
- (d) if paragraph (c) does not apply—the sublessor must consent or refuse consent (including reasons for the refusal), in writing, within 10 working days after—
 - (i) receiving the sublessee’s request; or
 - (ii) if the sublessor asks for information under paragraph (b)—receiving the information; and
- (e) the sublessee is responsible for the reasonable costs of the sublessor, and the sublessee’s mortgagee, in making a decision about whether to consent to the transfer of the sublease (not including any costs incurred in relation to an order under subsection (3) (c) (ii)).

Note If no time is provided for doing a thing under this subsection, the thing must be done as soon as possible (see [Legislation Act](#), s 151B).

- (3) For subsection (2) (c) and (d)—
 - (a) a person to whom a request for consent is made (the ***request receiver***) is taken to have consented to the proposed transfer if the request receiver does not consent or refuse consent within the relevant period mentioned in subsection (2) (c) (ii) and (d); and
 - (b) a request receiver may only refuse consent if the request receiver has reasonable grounds for believing—
 - (i) the proposed transferee is not financially sound; or
 - (ii) the proposed transferee intends to use the land under the sublease for a purpose not allowed under the sublease; or

- (iii) the proposed transferee cannot otherwise comply with the conditions of the sublease; or
 - (iv) the proposed transferee, or the use of the land under the sublease, will not be compatible with other sublessees under the Crown lease; or
 - (v) the sublessee is in breach of the sublease; and
- (c) if a request receiver refuses consent—
- (i) the sublessee may apply to the Magistrates Court for an order that the request receiver has refused consent otherwise than in accordance with this section; and
 - (ii) if the Magistrates Court is satisfied the request receiver has refused consent otherwise than in accordance with this section, the Court must order—
 - (A) that the request receiver is taken to have consented to the request; and
 - (B) the person in possession of the Crown lease for the land to which the sublease relates to present the lease to the registrar-general to allow registration of the transfer of the sublease.
- (4) In this section:
- mortgage* includes an encumbrance.
 - mortgagee* includes an encumbrancee.

88E Land subleases—no further subleases

A sublease of land under a land sublease is not valid or binding.

Note This section does not apply to a building sublease (see [Planning and Development Act 2007](#), dict, def *land sublease*).

88F Land subleases—surrender

A sublessee may surrender a land sublease—

- (a) with the written consent of the sublessor; or

Note If a land sublease is subject to a registered mortgage or encumbrance, the mortgagee or encumbrancee must also consent to the surrender (see s 86 (7) and s 89).

- (b) if consent to the transfer of a land sublease is refused under section 88D.

Note This section does not apply to a building sublease (see *Planning and Development Act 2007*, dict, def *land sublease*).

88G Withdrawal of land under land sublease

- (1) This section applies if—

(a) before the end of the term of a sublease, the sublessor withdraws all or part of the subleased land from the lease under a provision of the sublease; and

(b) the sublessee has fully complied with the provisions (if any) of the sublease relating to the construction of improvements on the land under the sublease.

Note This section does not apply to a building sublease (see *Planning and Development Act 2007*, dict, def *land sublease*).

- (2) Section 88H and section 88I apply in relation to the withdrawn land as if the sublease was surrendered on the day of the withdrawal.

- (3) In this section:

improvement, in relation to land—see section 88H (6).

88H Surrender etc of land sublease—payment for improvements

- (1) This section applies if—
- (a) a land sublease is surrendered or ends; and
 - (b) there are improvements in relation to the land under the sublease—
 - (i) that did not exist at the commencement of the sublease; and
 - (ii) the cost of which the sublessee was responsible for; and
 - (c) the sublessee—
 - (i) is not granted a further sublease of the land under the old sublease; or
 - (ii) is granted a new sublease of only part of the land under the old sublease.

Note This section does not apply to a building sublease (see *Planning and Development Act 2007*, dict, def *land sublease*).

- (2) The sublessor is liable to pay the sublessee—
- (a) if no further sublease of the land under the old sublease is granted—the value of the improvements as worked out under the *Planning and Development Act 2007*, section 295 as if the sublessor were the planning and land authority and the sublease were a Crown lease; or
 - (b) if a new sublease of only part of the land under the old sublease is granted—the value of the improvements on the part of the land not leased under the new sublease as worked out under the *Planning and Development Act 2007*, section 295 as if the sublessor were the planning and land authority and the sublease were a Crown lease.

- (3) Subsection (4) applies if—
 - (a) a sublease ends; and
 - (b) the sublessee has not given the sublessor at least 6 month's written notice before the sublease ended, or any shorter period agreed by the sublessee and sublessor, that the sublessee did not intend to apply for a further sublease.
- (4) The sublessor may deduct the amount of any expenditure reasonably incurred by the sublessor in subleasing the land, or part of the land, under the old sublease to someone else from the amount payable by the sublessor to the sublessee under this section.
- (5) The sublessor must give the sublessee a notice stating the amount worked out for subsection (2) and subsection (4) (if any) and how the amount is worked out.
- (6) In this section:
improvement, in relation to land, means a building or structure on or under the land.

88I ACAT review of value of improvements on land under land sublease etc

- (1) This section applies if—
 - (a) a sublessor is liable to pay an amount under section 88H; and
 - (b) the sublessor gives the sublessee a notice under section 88H (5).
- (2) The sublessee may apply to the ACAT for review of the amount (the *original amount*).
- (3) On application, the ACAT must—
 - (a) make a decision substituting an amount for the original amount; or

- (b) confirm the original amount.

88J Recovery of land under land sublease if sublessee in unlawful possession

- (1) This section applies if a person who has been a sublessee under a land sublease remains in possession of the land after—
- (a) the term of the sublease has ended; or
 - (b) the sublease has been surrendered or ended.
- (2) The sublessor, by written notice to the person (the *unlawful occupier*), may demand that the unlawful occupier give possession of the land to the sublessor within a reasonable period stated in the demand.
- (3) If a demand is not complied with—
- (a) the sublessor may apply to the Magistrates Court for an order that possession of the land be given to the sublessor; and
 - (b) the court may issue a warrant authorising a police officer, within 20 working 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 sublessor.

**58 Covenants of lessees
New section 119 (2)**

insert

- (2) This section does not apply to a land sublease.

**59 Powers in lessor
New section 120 (1A)**

insert

- (1A) This section does not apply to a land sublease.

60 Dictionary, note 2

insert

- ACAT

61 Dictionary, new definitions

insert

building sublease—see the [Planning and Development Act 2007](#), dictionary.

declared land sublease—see the [Planning and Development Act 2007](#), section 312C.

62 Dictionary, definition of *instrument*

omit

sublease

substitute

land sublease, a building sublease

63 Dictionary, new definitions

insert

land sublease—see the [Planning and Development Act 2007](#), dictionary.

units plan—see the [Unit Titles Act 2001](#), dictionary.

Part 12 Land Titles (Unit Titles) Act 1970

64 Duties of registrar-general after units plan registration New section 10 (1) (f)

insert

- (f) if the units plan subdivides a parcel of land under a declared land sublease—enter on the certificate of title for the units a memorial of—
- (i) the Crown lease; and
 - (ii) if the Crown lessee has mortgaged the land under the Crown lease—the Crown lessee’s mortgage.

65 Effect of cancellation of units plan Section 17 (1) and (2)

substitute

- (1) This section applies if a lease is cancelled, and a new lease arises, under the *Unit Titles Act 2001*, section 162 (Cancellation of units plan—effects).
- (2) A relevant interest noted on the cancelled lease immediately before the registration of a cancellation authority or cancellation order, applies to the new lease in the same way as it applied to the cancelled lease.

66 Section 17 (3)

omit

memorandum of mortgage mentioned in subsection (1)

substitute

relevant interest mentioned in subsection (2)

67 New section 17 (4)

insert

(4) In this section:

relevant interest, in a lease of a unit, means—

- (a) a mortgage of the lease of the unit; and
- (b) if the unit is in a units plan that subdivides a parcel of land under a declared land sublease—
 - (i) the Crown lease; or
 - (ii) if the Crown lessee has mortgaged the land under the Crown lease—the Crown lessee’s mortgage.

**68 Duties of registrar-general on registration of order
Section 18 (1) (d)**

substitute

- (d) enter on each folio of the register in relation to the new certificate of title, a memorial of any easement or relevant interest in the lease of the unit which applies to the lease under section 17 and, if the lease is subject to 2 or more relevant interests, enter the memorials in a way that preserves their priority.

69 New section 18 (5)

insert

(5) In this section:

relevant interest, in a lease of a unit—see section 17 (4).

**70 Registration of instruments granting further leases
Section 29 (1)**

substitute

- (1) This section applies if—
- (a) the planning and land authority grants further leases under the *Planning and Development Act 2007*, section 254 (Grant of further leases) of the units and the common property forming part of the registered units plan; or
 - (b) for a lease of a unit on a parcel of land under a declared land sublease—the Crown lessee grants further leases under the *Unit Titles Act 2001*, section 167AA of the units and the common property forming part of the registered units plan.

71 Dictionary, note 3

insert

- declared land sublease

Part 13 Leases (Commercial and Retail) Act 2001

72 What leases does this Act apply to? New section 12 (6) (ba)

insert

(ba) a land sublease; or

73 Section 12 (7), new definition of *land sublease*

insert

land sublease—see the *Planning and Development Act 2007*, dictionary.

Part 14 Legislation Act 2001

74 Dictionary, part 1, definition of *territory lease*, paragraph (b)

substitute

(b) does not include—

- (i) a sublease of land approved under the *Planning and Development Act 2007*, section 308; or
- (ii) any other sublease.

Part 15 Planning and Development Act 2007

75 Meaning of *development* Section 7 (2), definition of *subdivision*, paragraph (b)

substitute

- (b) does not include a sublease.

76 Form of development applications New section 139 (2) (ba)

insert

- (ba) if the application relates to land under a land sublease and—
- (i) the applicant is not the sublessee—also be signed by the sublessee; and
 - (ii) the applicant is not the Crown lessee—also be signed by the Crown lessee; and

77 Amending development applications Section 144 (2)

substitute

- (2) However, the planning and land authority must not amend the development application unless—
- (a) the authority is satisfied that—
 - (i) the development applied for after the amendment will be substantially the same as the development applied for originally; and
 - (ii) the assessment track for the application will not change if the application is amended; and

- (b) for land under a land sublease—
 - (i) if the applicant is not the sublessee—the sublessee consents, in writing, to the amendment; and
 - (ii) if the applicant is not the Crown lessee—the Crown lessee consents, in writing, to the amendment.

78 **Conditional approvals**
New section 165 (2) (e)

after the notes, insert

- (e) if the application is for approval of a development on subleased land—
 - (i) may include a condition that the sublessee develops unleased territory land in a stated way; and
 - (ii) must not include a condition inconsistent with the related Crown lease.

79 **End of development approvals for use under lease**
without lease variation, licence or permit
Section 186 (1) (a)

after

lease

insert

or declared unit title lease

80 **New section 186 (2) (f)**

before the note, insert

- (f) for a declared unit title lease—a further lease is not granted under the *Unit Titles Act 2001*, section 167AA.

81 New section 186 (5) (d)

before the examples, insert

- (d) for a declared unit title lease—a further lease is granted under the *Unit Titles Act 2001*, section 167AA.

82 Section 186 (7), new definition of *declared unit title lease*

insert

declared unit title lease means a lease of a unit or common property in a units plan that subdivides land under a declared land sublease.

**83 Applications to amend development approvals
New section 197 (3) (c)**

insert

- (c) if the application relates to land under a land sublease and—
- (i) the applicant is not the sublessee—also be signed by the sublessee; and
 - (ii) the applicant is not the Crown lessee—also be signed by the Crown lessee.

84 Section 197 (4)

after

subsection (3) (b) (i)

insert

or (c)

**85 Development applications for developments undertaken without approval
Section 205 (3)**

after

land

insert

(or for land under a land sublease, the sublessee)

**86 Definitions—ch 9
Section 234, definition of *subdivision*, paragraph (b)**

substitute

(b) does not include the subdivision of land—

- (i) under the *Unit Titles Act 2001*; or
- (ii) by the grant of a sublease.

87 Section 234, definition of *sublessee*

omit

**88 Access to leased land from roads and road related areas
Section 248 (2)**

omit

by the planning and land authority

**89 Grant of further leases
Section 254 (1) (a), new note**

insert

Note A further lease under the *Unit Titles Act 2001* over land under a declared land sublease may only be granted under the *Unit Titles Act 2001*, s 167AA (see s (1A)).

90 New section 254 (1A)

insert

- (1A) For a lease granted or arising under the *Unit Titles Act 2001*—
- (a) the owners corporation for a units plan may apply on behalf of an owner of a unit for the grant of a further lease of the unit; and
 - (b) relating to a units plan that subdivides land under a declared land sublease—the owners corporation may only apply for the grant of a further lease under the *Unit Titles Act 2001*, section 167AA.

**91 Consent to s 265 dealings
Section 266 (2)**

omit

sublet the lease

substitute

grant a sublease

92 Section 308

substitute

308 Power of Crown lessee to sublet part of land

- (1) A Crown lessee must not sublease any land under a Crown lease without the planning and land authority's prior written approval.

Note 1 A sublessee cannot further sublease the land under the sublease (see *Land Titles Act 1925*, s 88E).

Note 2 If a form of application or sublease is approved under s 425 for this provision, the form must be used.

- (2) The planning and land authority must, in writing, approve or refuse to approve a sublease of land not later than 10 working days after the authority is asked, in writing, to approve the sublease.
- (3) The planning and land authority must not approve a sublease of land—
- (a) other than in accordance with criteria prescribed by regulation; and
- Note* Power to make a regulation includes power to make different provision in relation to different matters or different classes of matters, and to make a regulation that applies differently by reference to stated exceptions or factors (see [Legislation Act](#), s 48).
- (b) if the sublease—
- (i) is inconsistent with this Act or the [Land Titles Act 1925](#); or
- (ii) allows—
- (A) the extension of the initial term of the sublease; or
- (B) the grant of a further sublease; and
- (c) unless satisfied that, during the term of the sublease (including a declared land sublease), the sublessee will have—
- (i) direct access to the subleased land from a road or road related area; or
- (ii) access to the subleased land from a road or road related area by way of an access road or track, or in another way, that the sublessee may use for entry or exit only, without charge and at any time.
- (4) The Crown lessee must give the executed approved sublease to the planning and land authority.

- (5) The planning and land authority must give the executed approved sublease to the registrar-general for registration under the *Land Titles Act 1925*.

Note The planning and land authority must give the executed approved sublease to the registrar-general for registration as soon as possible (see *Legislation Act*, s 151B).

- (6) Access provided because of subsection (3) (c) (ii)—
- (a) must not interfere with a building, garden or stockyard on the land (the *affected land*) through which the access is provided at the time the access is provided; and
 - (b) must be located in a way that causes as little damage or inconvenience to the sublessee, another sublessee or Crown lessee of the affected land as possible.
- (7) A regulation may prescribe—
- (a) the form of a sublease; and
 - (b) a document that must accompany or be included in a sublease; and
 - (c) a provision that must or must not be included in the sublease.
- (8) A provision of a sublease that—
- (a) is inconsistent with this Act or the *Land Titles Act 1925* is void to the extent of the inconsistency; or
 - (b) allows the extension of the initial term of the sublease is void; or
 - (c) allows the grant of a further sublease is void.
- (9) Nothing in this Act, by itself, creates an obligation on a lessee under a sublease of land to grant the sublessee a further or new sublease.

Note The *Unit Titles Act 2001*, s 167AA provides for the grant of further leases of units and common property if a declared land sublease is subdivided by a units plan.

- (10) This section does not apply to a part of land sublet under section 309.

**93 Access to lease documents and development agreements
New section 311 (2) (d)**

insert

- (d) a land sublease.

94 New part 9.13

insert

Part 9.13 Declared subleases of land

312B Declared Crown leases

- (1) The Minister and another Minister may together declare a prescribed Crown lease to be a *declared Crown lease* if it is in the public interest.
- (2) In deciding whether it is in the public interest to make a declaration, the Ministers must consider the following:
 - (a) whether making the declaration is likely to encourage development of the land under the declared Crown lease that has a substantial benefit to the ACT community;
 - (b) whether making the declaration would cause any disadvantage to the ACT community taking into account potential uses of the land under the declared Crown lease that are consistent with the [territory plan](#), whether or not those uses are authorised by the lease;
 - (c) whether any development of part of the land under the declared Crown lease is likely to be part of a larger development and, if so, what that development will involve;

- (d) whether making the declaration is likely to encourage development of the land under the declared Crown lease that is likely to have a substantial effect on the achievement or development of the object of the [territory plan](#) as set out in the statement of strategic directions and objectives for each zone that applies to the land under the declared Crown lease;
 - (e) whether making the declaration raises a major policy issue.
- (3) A declaration is a notifiable instrument.
- Note* A notifiable instrument must be notified under the [Legislation Act](#).
- (4) A declaration—
- (a) may only be amended or revoked to correct an error and if a declaration is amended, or revoked and a new declaration made, the amendment or new declaration may commence retrospectively; and
 - (b) continues to apply in relation to a Crown lease that was a prescribed Crown lease when the declaration was made even if the Crown lease stops being a prescribed Crown lease.
- (5) The planning and land authority must give the registrar-general a copy of the declaration.
- (6) In this section:
- prescribed Crown lease*** means—
- (a) a perpetual Crown lease held by the University of Canberra; or
 - (b) a perpetual Crown lease held by the Australian National University prescribed by regulation.

312C **Meaning of *declared land sublease***

(1) In this Act:

declared land sublease—

- (a) means a land sublease under a declared Crown lease; and
- (b) includes any new land sublease granted by the Crown lessee to the sublessee over the land under a surrendered or expired declared land sublease.

(2) In this section:

declared Crown lease—see section 312B (1).

95 **Definitions—ch 13**
Section 407, definition of *eligible entity*

substitute

eligible entity, for a reviewable decision—

- (a) means an entity mentioned in schedule 1, column 3 for the decision; and
- (b) for a reviewable decision in relation to a development application or development approval if the applicant is not—
 - (i) the lessee—includes the lessee; and
 - (ii) for a land sublease, the sublessee—includes the sublessee.

**96 Reviewable decisions, eligible entities and interested entities
Schedule 1, new item 40A**

insert

40A	decision under s 308 (2) to refuse to approve a sublease of land	applicant for approval of sublease	
-----	--	------------------------------------	--

97 Dictionary, new definitions

insert

building sublease means a sublease mentioned in section 307 (Power of lessee to sublet part of building).

declared land sublease—see section 312C (1).

land sublease means a sublease of land approved under section 308 (Power of Crown lessee to sublet part of land) but does not include a building sublease.

98 Dictionary, definition of *sublessee*

omit

Part 16 Planning and Development Regulation 2008

99 Details to be included in exemption assessment application—Act, s 138B (2) (a) (iii) New section 22 (a) (iii)

insert

- (iii) if the land is under a land sublease—the sublease plan number;

100 Preparation of EIS—Act, s 208 (1) Section 50 (2) (c) (v) (A) and (B)

substitute

- (A) the block and section number and division of the land and the volume and folio of the Crown lease; or
- (B) if the land is under a land sublease—the sublease plan number and the volume and folio of the Crown lease; and

101 Section 220 heading

substitute

220 Criteria for giving approval of sublease of land—Act, s 308 (3) (a)

102 Section 220 (1) (b)

substitute

- (b) for a land sublease—
 - (i) must not be for a term longer than 99 years; and

- (ii) if the sublease authorises residential use of the land under the sublease—the sublease must state the number, or a maximum number, of dwellings permitted on the land under the sublease; and
- (iii) if the sublease authorises non-residential use of the land under the sublease—the sublease must state the maximum total gross floor area of buildings and structures permitted for non-residential use on the land under the sublease.

103 New section 221

insert

221 Prescribed matters in land sublease—Act, s 308 (7)

- (1) A land sublease must—
 - (a) if the sublease is a declared land sublease—state that it is a declared land sublease; and
 - (b) include a purpose clause consistent with the Crown lease under which the sublease is granted; and
 - (c) state the commencement date and term of the sublease; and
 - (d) include a plan of the land—
 - (i) prepared in accordance with any relevant practice direction under the *Surveyors Act 2007*, section 55; and
 - (ii) signed by the surveyor-general; and
 - (e) include a provision dealing with termination of the sublease, including breach of the sublease, that is fair and equitable between the parties having regard to the parties' circumstances and the nature and circumstances of the termination; and

- (f) include a provision dealing with the resolution of disputes between the parties in relation to the sublease, that is fair and equitable between the parties having regard to the parties' circumstances and the nature and circumstances of the dispute; and
- (g) include or be accompanied by—
 - (i) a written statement from relevant utility providers that the utility services are available to the land under the land sublease; and
 - (ii) plans in accordance with any relevant Australian Standard showing that the utility services are available to the land under the land sublease; and
- (h) include or be accompanied by plans in accordance with any relevant Australian Standard showing that satisfactory road access for municipal services is available to the land under the land sublease.

Examples—municipal services

waste removal and recycling services, fire and other emergency services

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

- (2) For this section, a ***utility service is available to the land under a land sublease*** if the service can be connected at the boundary of the land sublease to enable the service to be provided on the land under the land sublease.
- (3) In this section:

electricity services means the services described in the [Utilities Act 2000](#), section 6.

gas services means the services described in the [Utilities Act 2000](#), section 9.

sewerage services means the services described in the *Utilities Act 2000*, section 13.

telecommunications network—see the *Telecommunications Act 1997* (Cwlth), section 7.

telecommunications services means communications carried by a telecommunications network.

utility services means electricity services, gas services, sewerage services, telecommunication services and water services.

water services means the services described in the *Utilities Act 2000*, section 11.

104 Schedule 1, section 1.110 (3), definition of lessee

substitute

lessee, of land before the act or event that damaged the building or structure—

- (a) means for land under a land sublease—the sublessee; and
- (b) includes a person who, before the act or event, had entered into an agreement with the lessee of the land giving the person a right to the transfer of the lease but to whom no transfer had been registered under the *Land Titles Act 1925* in accordance with the agreement.

**105 Permitted variations to approved and exempt developments
Schedule 1A, section 1A.11 (4)**

omit

106 Schedule 1A, section 1A.11 (5), new definitions

insert

exemption declaration—see schedule 1, section 1.100A (1) (b).

lease includes a land sublease.

**107 Matters exempt from third-party ACAT review
Schedule 3, part 3.2, item 6, column 2, paragraph (g) (iii)**

after

lease

insert

, or land sublease,

108 Schedule 3, part 3.2, item 8, column 2, paragraph (e)

after

lease

insert

, or land sublease,

109 Dictionary, note 2

insert

- surveyor-general

110 Dictionary, note 3

insert

- declared land sublease
- land sublease

111 Dictionary, definition of *block*

substitute

block means—

- (a) a block under the *Districts Act 2002*; or
- (b) for land under a land sublease—the land identified in the registered sublease plan.

112 Dictionary, new definition of *owner*

insert

owner, of land, means, for land under a land sublease, the sublessee.

Part 17 Public Unleased Land Act 2013

113 Dictionary, new definition of *land sublease*

insert

land sublease—see the [Planning and Development Act 2007](#), dictionary.

114 Dictionary, definition of *owner*, paragraph (a)

substitute

- (a) of land, means the lessee of the land (or for land under a land sublease, the sublessee); and

Part 18 Rates Act 2004

115 Definitions for pt 7 Section 45

after the heading, insert

In this part:

116 Section 45, definition of *owner*, new paragraph (a) (ia)

insert

- (ia) for a parcel held under a declared land sublease—the sublessee (or, if 2 or more people are sublessees, each sublessee); or

117 Dictionary, new definition of *declared land sublease*

insert

declared land sublease—see the [Planning and Development Act 2007](#), section 312C.

118 Dictionary, definition of *owner*, new paragraph (a) (v)

insert

- (v) for a parcel held under a declared land sublease—the sublessee; and

119 Dictionary, definition of *parcel*

substitute

parcel includes—

- (a) a part of a parcel of land that is separately held by an occupier, tenant, lessee or owner; and
- (b) land held under a declared land sublease.

Part 19 Unit Titles Act 2001

120 Parcels Section 5, new note

insert

Note A *parcel* includes land under a declared land sublease.

121 Minor boundary changes Section 16 (c)

after

lease

insert

(or any declared land sublease)

122 New section 17A

insert

17A Unit title applications—land under declared land sublease

- (1) This section applies to an application to the planning and land authority for approval of the subdivision of a parcel of land under a declared land sublease.
- (2) The Crown lessee must consent, in writing, to the application.
- (3) For subsection (2)—
 - (a) the sublessee must request the Crown lessee's consent, in writing; and

- (b) within 10 working days after receiving the request, or any longer period agreed by the sublessee and Crown lessee, the Crown lessee may, in writing, ask the sublessee to give the Crown lessee information about the following:
 - (i) the proposed subdivision of the land;
 - (ii) the use of the units in the units plan; or
- (c) if the Crown lessee has mortgaged the land under the Crown lease and the consent of the Crown lessee's mortgagee is required under the mortgage to the application—
 - (i) the Crown lessee must—
 - (A) tell the Crown lessee's mortgagee that the request by the sublessee has been made and of the terms of the request; and
 - (B) if asked by the mortgagee—ask the sublessee for the information mentioned in paragraph (b) and give the information to the mortgagee; and
 - (ii) the Crown lessee's mortgagee must consent or refuse consent (including reasons for the refusal), in writing, to the Crown lessee and the sublessee within 10 working days after—
 - (A) being told about the sublessee's request; or
 - (B) if the mortgagee asks for information under paragraph (c) (i) (B)—receiving the information; and
 - (iii) the Crown lessee must consent or refuse consent (including reasons for the refusal), in writing, to the sublessee; and

- (d) if paragraph (c) does not apply—the Crown lessee must consent or refuse consent (including reasons for the refusal), in writing, within 10 working days after—
- (i) receiving the sublessee’s request; or
 - (ii) if the Crown lessee asks for information under paragraph (b)—receiving the information; and
- (e) the sublessee is responsible for the reasonable costs of the Crown lessee, and the Crown lessee’s mortgagee, in making a decision about whether to consent to the unit title application (not including any costs incurred in relation to an order under subsection (4) (c) (ii)).

Note If no time is provided for doing a thing under this subsection, the thing must be done as soon as possible (see [Legislation Act](#), s 151B).

- (4) For subsection (3) (c) and (d)—
- (a) a person to whom a request for consent is made (the ***request receiver***) is taken to have consented to the unit title application if the request receiver does not consent or refuse consent within the relevant period mentioned in subsection (3) (c) (ii) and (d); and
 - (b) a request receiver may only refuse consent if the request receiver has reasonable grounds for believing—
 - (i) the proposed subdivision of the land, or the use of the units in the units plan, will not be compatible with other sublessees under the Crown lease; or
 - (ii) the sublessee is in breach of the sublease; and
 - (c) if a request receiver refuses consent—
 - (i) the sublessee may apply to the Magistrates Court for an order that the request receiver has refused consent otherwise than in accordance with this section; and

- (ii) if the Magistrates Court is satisfied the request receiver has refused consent otherwise than in accordance with this section, the Court must order that the request receiver is taken to have consented to the request.

**123 Leases of units and common property
New section 33 (3A)**

after the note, insert

- (3A) For subsections (2) and (3), registration of a units plan that subdivides a parcel of land under a declared land sublease ends the sublease.

124 Part 12 heading

substitute

Part 12 Lease variations and grants of further leases

**125 Development applications to vary lease under Planning and Development Act
New section 166 (1) (d)**

insert

- (d) if the unit or common property lease is in a units plan that subdivides a parcel of land under a declared land sublease—the Crown lessee consents, in writing, to the application.

126 Division 12.2 heading*substitute***Division 12.2 Grants of further leases****167AA Declared land subleases—grant of further leases**

- (1) This section applies if—
 - (a) a units plan subdivides land under a declared land sublease; and
 - (b) the owners corporation, as owner of an old lease of common property and on behalf of each owner of an old lease of a unit, applies, in writing, before the expiry of the old leases for the grant of a further lease of the units and common property in the units plan; and
 - (c) any criteria prescribed by regulation are satisfied.
- (2) The Crown lessee must, within 30 days of receiving the application, grant, or refuse to grant, further leases for—
 - (a) the same term as the old leases; or
 - (b) a different term as agreed between the Crown lessee and the owners corporation of not less than 50 years.
- (3) A further lease—
 - (a) must authorise each use of the leased land, and any building or structure on the land, that the old lease authorised; and
 - (b) is subject to any easement benefitting or burdening the leased land to which the old lease was subject.
- (4) A further lease begins on the day after—
 - (a) the day the old lease is surrendered; or

- (b) for a further lease granted on application after the expiry of the old lease—the day after the old lease expires.
- (5) If the term of a further lease granted under subsection (2) is not longer than the term of the old lease, the Crown lessee may not require the sublessee, the owners corporation or a unit owner to pay any amount for the grant of the further lease that is more than the cost of granting the further lease.
- (6) If the Crown lessee refuses to grant the further leases for which the owners corporation has applied—
- (a) the Crown lessee must give the owners corporation reasons for the refusal, in writing; and
- (b) the owners corporation may apply to the ACAT for an order requiring the Crown lessee to grant the further leases on the terms the ACAT considers appropriate.
- (7) If further leases are granted, the sublessee, owners corporation and unit owners are not liable to pay the Crown lessee for the improvements on the land or part of the land.
- (8) In this section:

improvement, in relation to land—see the *Land Titles Act 1925*, section 88H (6).

non-residential unit leases means leases of units and common property under a units plan that authorises non-residential use of the units.

old leases means leases of units and common property under a units plan that subdivides land under a declared land sublease.

127 Section 167A

substitute

167A Grant of further leases—generally

- (1) This section applies if the owners corporation of a units plan intends to apply for the grant of a further lease of the units and common property in the units plan under—
 - (a) the *Planning and Development Act 2007*, section 254; or
 - (b) for a units plan that subdivides land under a declared land sublease—section 167AA.
- (2) The owners corporation must—
 - (a) hold a general meeting; and
 - (b) include in the notice of the general meeting a statement to the effect that—
 - (i) it intends to apply for the further leases; and
 - (ii) to allow the further leases to be granted, each owner of a unit in the units plan must give the certificate of title for the lease of the unit to the registrar-general; and
 - (c) at the meeting, seek authority by ordinary resolution, if the owners corporation applies for the grant of the further leases—
 - (i) to notify the registrar-general in writing about the application (a *further lease notice*) accompanied by evidence of the resolution; and

Note 1 The *Unit Titles (Management) Act 2011*, sch 3, s 3.19 sets out requirements for evidence of resolutions of owners corporations.

Note 2 It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see *Criminal Code*, pt 3.4).

- (ii) to do anything else necessary on behalf of an owner of a unit to ensure the grant of the further leases.

Examples—par (c) (ii)

- 1 deal with a mortgagee in relation to the unit to obtain the mortgagee's consent to the application for the further lease
- 2 sign on behalf of a unit owner any document required by the registrar-general to ensure the grant of a further lease

Note 1 If a form is approved under s 180 for this provision, the form must be used.

Note 2 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](#), s 126 and s 132).

- (3) Subsection (4) applies if—
- (a) the owners corporation gives the registrar-general a further lease notice; and
 - (b) the certificate of title, or other evidence of title, for a lease to which the further lease notice relates is not given to the registrar-general within 28 days after the further lease notice is given to the registrar-general.
- (4) For the [Land Titles Act 1925](#), section 86 (5) (Surrender of lease), the certificate of title for the lease is taken to have been given to the registrar-general.

167B Declared land subleases—surrender of leases in units without grant of further leases

- (1) This section applies if a units plan subdivides land under a declared land sublease.
- (2) The owners corporation may, on behalf of the unit owners, surrender the leases with the written consent of the Crown lessee.

Note If a lease is subject to a registered mortgage or encumbrance, the mortgagee or encumbrancee must also consent to the surrender (see [Land Titles Act 1925](#), s 86 (7)).

- (3) If a lease is surrendered under subsection (2), the *Land Titles Act 1925*, section 88H (Surrender etc of land sublease—payment for improvements) applies.

128 **Effects of lease expiry**
Section 168 (1) (c) and (2)

after

Territory

insert

(or, if the units plan subdivides a parcel of land under a declared land sublease, the Crown lessee)

129 **New section 168 (2A) to (2C)**

insert

- (2A) The value of the amount mentioned in subsection (1) (c) must be worked out under the *Planning and Development Act 2007*, section 295 as if the Territory (or, if the units plan subdivides a parcel of land under a declared land sublease, the Crown lessee) were the planning and land authority.
- (2B) Subsection (2C) applies if—
- (a) the term of a lease of a unit or common property in a units plan that subdivides a parcel of land under a declared land sublease expires; and
 - (b) the owners corporation has not given the Crown lessee at least 6 month's written notice before the lease expired that the owners corporation did not intend to apply for a further lease under section 167AA.

- (2C) The Crown lessee may deduct the amount (up to the prescribed amount) of any expenditure reasonably incurred by the Crown lessee in subleasing the land, or part of the land, under the expired leases to someone else from the amount payable by the Crown lessee under subsection (1) (c).

130 Effect of termination of unit lease Section 170 (2), note

substitute

Note This section does not apply to a lease surrendered under the *Planning and Development Act 2007*, s 254 or a lease under a units plan that subdivides land under a declared land sublease surrendered under this Act, s 167AA (see dict, def *termination*).

131 New unit lease—schedule of unit entitlement Section 172 (2), note

substitute

Note This section does not apply to a further lease, or a further lease under a units plan that subdivides land under a declared land sublease, granted after a lease has been surrendered under the *Planning and Development Act 2007*, s 254 or this Act, s 167AA (see dict, def *termination*).

132 Dictionary, new definitions

insert

Crown lease—see the *Land Titles Act 1925*, dictionary.

Crown lessee, in relation to a declared land sublease, means the lessee under the Crown lease under which the sublease is granted.

declared land sublease—see the *Planning and Development Act 2007*, section 312C.

133 Dictionary, definition of *interest*

substitute

interest, in a unit or common property—

- (a) means a legal or equitable estate or interest (whether registered or unregistered) in the lease of the unit or of the common property; and
- (b) if a units plan subdivides a parcel of land under a declared land sublease—includes the interest of the Crown lessee in the land; but
- (c) does not include an interest in a lease of a unit.

134 Dictionary, definitions of *lease* and *termination*

substitute

lease means—

- (a) for a unit—the lease of the unit under—
 - (i) section 33 (2) (Leases of units and common property); or
 - (ii) section 167AA (Declared land subleases—grant of further leases); or
 - (iii) section 171 (2) (New unit lease); or
 - (iv) the *Planning and Development Act 2007*, section 254 (Grant of further leases); or
- (b) for common property—the lease of the common property under—
 - (i) section 33 (3) (Leases of units and common property); or
 - (ii) section 167AA (Declared land subleases—grant of further leases); or

- (iii) the *Planning and Development Act 2007*, section 254 (Grant of further leases); or
- (c) for a parcel—
 - (i) the lease of the parcel—
 - (A) granted under the *Planning and Development Act 2007*; or
 - (B) arising under section 162 (Cancellation of units plan—effects) of this Act; or
 - (ii) if the parcel is land under a declared land sublease—the declared land sublease.

termination, of a lease of a unit, does not include the termination of the lease on surrender under—

- (a) the *Planning and Development Act 2007*, section 254 (Grant of further leases); or
- (b) for leases under a units plan that subdivides land under a declared land sublease—section 167AA.

Part 20 Unit Titles (Management) Act 2011

135 Corporate register—information to be included New section 114 (2) (c)

insert

- (c) if the units plan subdivides a parcel of land under a declared land sublease—the full name and an address for correspondence of the Crown lessee.

136 Corporate register—provision of information Section 115 (1) (a)

omit

agreeing

substitute

entering into an agreement

137 New section 115 (2A)

insert

- (2A) The Crown lessee for a declared land sublease must give the owners corporation for the units plan written notice of the details of any of the following events within 14 days after the event happens:
- (a) the Crown lessee entering into an agreement to transfer an interest in the Crown lease to someone else (the *new owner*);
 - (b) the lodgment for registration of the transfer;
 - (c) a change in the Crown lessee's name or address for correspondence.

138 Dictionary, new definition of *declared land sublease*

insert

declared land sublease—see the [Planning and Development Act 2007](#), section 312C.

Part 21 Unit Titles Regulation 2001

139 Unit title assessment report application—Act, s 22B (2) New section 2B (a) (iii)

insert

- (iii) if the parcel is land under a declared land sublease—the sublease plan number;

140 Unit title assessment report—contents—Act, s 22B (5) (a) New section 2D (1) (ba)

insert

- (ba) if the parcel is land under a declared land sublease—the sublease plan number;

141 Unit title assessment report—accompanying material— Act, s 22B (5) (b) New section 2E (1) (ka)

after the note, insert

- (ka) if the parcel is land under a declared land sublease—a plan showing the location of utility services on the land and easements benefitting and burdening the land;

142 Boundary diagrams New section 6 (1) (aa)

insert

- (aa) if the parcel is land under a declared land sublease—a boundary diagram of the Crown lease under which the declared land sublease is granted showing the boundaries of the Crown lease and the parcel;

**143 Endorsement of units plans—Act, s 27 (2)
Section 9 (2)**

substitute

- (2) The documents must be signed by—
- (a) the lessee of the parcel; and
 - (b) if the parcel is land under a declared land sublease—the Crown lessee.

144 Dictionary, note 3

insert

- Crown lessee
- declared land sublease

Part 22 Utilities Act 2000

145 Water supply and sewerage services—owner’s liability for payment Section 94 (6), definition of *owner*, new paragraph (e)

insert

(e) for land held under a land sublease—the sublessee.

146 Dictionary, new definition of *land sublease*

insert

land sublease—see the [Planning and Development Act 2007](#), dictionary.

147 Dictionary, definition of *owner*

substitute

owner, of land or premises, means—

- (a) a person who owns the land or premises; or
- (b) a lessee of the land or premises under a lease granted by or for the Commonwealth; or
- (c) for a unit under the [Unit Titles Act 2001](#)—the unit owner; or
- (d) for land held under a land sublease—the sublessee;

whether alone or together with 1 or more other people.

Part 23 Water and Sewerage Act 2000

148 Dictionary, new definition of *land sublease*

insert

land sublease—see the [Planning and Development Act 2007](#), dictionary.

149 Dictionary, definition of *owner*

substitute

owner, of premises or land on which a sewerage or water service has been, or is to be, installed includes—

- (a) the occupier, lessee, tenant or holder of the premises or land;
and
- (b) for land under a land sublease or premises on the land—the sublessee.

Part 24 Water and Sewerage Regulation 2001

150 Dictionary, note 3

insert

- land sublease
- owner

151 Dictionary, new definition of *parcel*

insert

parcel, of land, includes land under a land sublease.

Part 25 Water Resources Act 2007

152 Dictionary, new definition of *land sublease*

insert

land sublease—see the [Planning and Development Act 2007](#), dictionary.

153 Dictionary, definition of *owner*

substitute

owner, of land, includes—

- (a) the lessee of the land; or
- (b) for land under a land sublease—the sublessee.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 14 May 2015.

2 Notification

Notified under the [Legislation Act](#) on 11 June 2015.

3 Republications of amended laws

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

I certify that the above is a true copy of the Planning and Development (University of Canberra and Other Leases) Legislation Amendment Bill 2015, which was passed by the Legislative Assembly on 4 June 2015.

Clerk of the Legislative Assembly

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