

2015

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Planning)

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

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2015

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FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Planning)

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

A Bill for

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

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

5 **2 Commencement**

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

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

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

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

16 **3 Legislation amended**

17 This Act amends the following legislation:

- 18 • [Building Act 2004](#)
- 19 • [Building \(General\) Regulation 2008](#)
- 20 • [Common Boundaries Act 1981](#)
- 21 • [Community Title Act 2001](#)
- 22 • [Duties Act 1999](#)
- 23 • [Environment Protection Act 1997](#)
- 24 • [Environment Protection Regulation 2005](#)
- 25 • [First Home Owner Grant Act 2000](#)
- 26 • [Land Tax Act 2004](#)
- 27 • [Land Titles Act 1925](#)
- 28 • [Land Titles \(Unit Titles\) Act 1970](#)

- 1 • *Leases (Commercial and Retail) Act 2001*
- 2 • *Legislation Act 2001*
- 3 • *Planning and Development Act 2007*
- 4 • *Planning and Development Regulation 2008*
- 5 • *Public Unleased Land Act 2013*
- 6 • *Rates Act 2004*
- 7 • *Unit Titles Act 2001*
- 8 • *Unit Titles (Management) Act 2011*
- 9 • *Unit Titles Regulation 2001*
- 10 • *Utilities Act 2000*
- 11 • *Water and Sewerage Act 2000*
- 12 • *Water and Sewerage Regulation 2001*
- 13 • *Water Resources Act 2007.*

1 **Part 2 Building Act 2004**

2 **4 Dictionary, new definition of *land sublease***

3 *insert*

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

6 **5 Dictionary, definition of *owner*, new paragraph (h)**

7 *insert*

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

9 **6 Dictionary, new definition of *parcel***

10 *insert*

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

1 **Part 3** **Building (General)**
2 **Regulation 2008**

3 **7** **General requirements for plans—Act, s 27 (1) (a)**
4 **Section 16 (2) (g)**

5 *substitute*

6 (g) for the parcel of land where the work is to be done—include a
7 site plan on a scale of not less than 1:200 showing—

8 (i) the block and section number of the land (or for land
9 under a land sublease, the sublease plan number); and

10 (ii) the boundaries and dimensions of the land; and

11 **8** **Dictionary, note 3**

12 *insert*

- 13 • land sublease
14 • parcel (of land)

1 **Part 4 Common Boundaries Act 1981**

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

4 *insert*

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

6 **10 Dictionary, new definition of *land sublease***

7 *insert*

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

10 **11 Dictionary, definition of *parcel of land***

11 *substitute*

12 *parcel of land*—

13 (a) for this Act generally—includes land held under a land
14 sublease; and

15 (b) for division 2.1 (Fences requested by occupiers)—see
16 section 2A and section 2B.

1 **Part 5** **Community Title Act 2001**

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

5 *insert*

6 (c) if the application relates to land under a declared land sublease
7 and—

8 (i) the developer is not the sublessee—the sublessee; and

9 (ii) the developer is not the Crown lessee—the Crown lessee.

10 **13 Amendment by the Supreme Court**
11 **Section 27 (1), definition of *interested person*, new**
12 **paragraph (ca)**

13 *insert*

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

16 **14 Injunction**
17 **Section 28 (2), definition of *interested person*, new**
18 **paragraph (ba)**

19 *insert*

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

22 **15 Dictionary, new definitions**

23 *insert*

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

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

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

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

7 **16 Dictionary, definition of lot**

8 *substitute*

9 *lot*—

10 (a) means a parcel of land for which a certificate of title has been
11 issued under the *Land Titles Act 1925*; but

12 (b) does not include a land sublease other than a declared land
13 sublease.

1 **Part 6** **Duties Act 1999**

2 **17 Imposition of duty on certain transactions concerning**
3 **dutiable property**
4 **New section 7 (1) (b) (iiia)**

5 *insert*

6 (iiia) a grant of a declared land sublease;

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

8 *substitute*

9 ***grant***—

10 (a) of a Crown lease over land, includes the grant of a new lease
11 following the surrender or determination of the Crown lease
12 over land that includes part or all of the land over which the
13 new lease is granted; and

14 (b) of a declared land sublease, includes the grant of a new land
15 sublease following the surrender or determination of the
16 sublease over land that includes part or all of the land over
17 which the new sublease is granted.

18 **19 Imposition of duty on dutiable transactions that are not**
19 **transfers**
20 **Table 8, item 3, columns 2 and 5**

21 *after*

22 lease

23 *insert*

24 (or declared land sublease)

Section 20

20 Table 8, item 3, column 4

1 *after*

2 lessee

3 *insert*

4 (or for a declared land sublease, the sublessee)

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

6 *insert*

7 (ba) a declared land sublease;

22 Section 10 (1) (g)

10 *after*

11 Crown lease

12 *insert*

13 or declared land sublease

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

16 *substitute*

17 (3) If a Crown lease, or declared land sublease, is granted subject to a
18 requirement that the lessee, or sublessee, carry out, or cause to be
19 carried out, works on land other than the land the subject of the
20 lease, or sublease, the cost of carrying out the works is taken to form
21 part of the consideration for the lease or sublease.
22
23

1 **24 Refund if Crown lease surrendered**
2 **New section 52 (6)**

3 *insert*

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

10 **25 Surrender and regrant of Crown lease**
11 **New section 68 (4)**

12 *insert*

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

15 **26 Regrant of lease with additional land**
16 **New section 68A (2)**

17 *insert*

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

20 **27 Dictionary, definition of *Crown lease* and note**

21 *substitute*

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

- 1 **28 Dictionary, new definition of *declared land sublease***
- 2 *insert*
- 3 *declared land sublease*—see the *Planning and Development*
- 4 *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.

- 1 **32 Application**
2 **Section 47 (3)**
- 3 *omit*
4 parcel of land
5 *substitute*
6 land (or for land under a land sublease, the sublessee)
- 7 **33 Section 47 (3) (a)**
- 8 *substitute*
9 (a) if the land is leased—
10 (i) the lessee; or
11 (ii) for land under a land sublease—the sublessee and
12 sublessor; or
13 *Note* A sublessor, under a land sublease, is the lessee under the Crown
14 lease under which the sublease is granted.
- 15 **34 Order to remediate land**
16 **Section 91D (3) (a)**
- 17 *omit*
18 an occupier is not the lessee of that land, serve notice on the lessee;
19 *substitute*
20 an occupier is not—
21 (i) the lessee of the land—serve notice on the lessee; or
22 (ii) for land under a land sublease, the sublessee—serve notice on
23 the sublessee;

1 **35 Section 91D (8)**

2 *after*

3 lessee

4 *insert*

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

6 **36 Notification of certain people about orders for**
7 **assessment or remediation**
8 **Section 91E (1)**

9 *omit*

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

11 *substitute*

12 relevant person in relation to

13 **37 New section 91E (3)**

14 *insert*

15 (3) In this section:

16 *relevant person*, in relation to land, means—

17 (a) the occupier of the land; and

18 (b) if the occupier is not the lessee—the lessee; and

19 (c) if the land is land under a land sublease and the occupier is not
20 the sublessee—the sublessee.

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

3 *substitute*

4 (b) either—

5 (i) a lessee of the land (whether or not the person had any
6 responsibility for the contamination of the land with the
7 substance) or if that is not practicable, the person
8 mentioned in paragraph (c); or

9 (ii) if the land is land under a land sublease—the sublessee of
10 the land (whether or not the person had any responsibility
11 for the contamination of the land with the substance) or if
12 that is not practicable, the following people in the
13 following order:

14 (A) the sublessor of the land (whether or not the person
15 had any responsibility for the contamination of the
16 land with the substance);

17 (B) the person mentioned in paragraph (c);

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

20 **39 Section 91I (4), definition of *notional lessee***

21 *after*

22 lease

23 *insert*

24 (or land sublease)

1 **40 Section 91I (4), definition of *notional lessee*,**
2 **paragraph (c) (ii)**

3 *after 1st mention of*

4 lessee

5 *insert*

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

7 **41 Section 91I (4), definition of *notional lessee*,**
8 **paragraph (c) (ii)**

9 *after 2nd mention of*

10 lessee

11 *insert*

12 (or sublessee)

13 **42 Liability for losses**
14 **New section 91O (5)**

15 *insert*

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

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

1 **43 Environment protection orders**
2 **Section 125 (2) and (3)**

3 *omit*
4 occupier of the land and, if the occupier is not the lessee, on the
5 lessee
6 *substitute*
7 relevant person in relation to the land

8 **44 New section 125 (7)**

9 *insert*
10 (7) In this section:
11 ***relevant person***, in relation to land, means—
12 (a) the occupier of the land; and
13 (b) if the occupier is not the lessee—the lessee; and
14 (c) if the land is land under a land sublease and the occupier is not
15 the sublessee—the sublessee.

16 **45 Schedule 1, table 1.2, item 7, column 2**

17 *after*
18 lessee
19 *insert*
20 (or for land under a land sublease, the sublessee)

21 **46 Dictionary, new definition of *land sublease***

22 *insert*
23 ***land sublease***—see the *Planning and Development Act 2007*,
24 dictionary.

1 **Part 8** **Environment Protection**
2 **Regulation 2005**

3 **47 Dictionary, note 3**

4 *insert*

- 5 • land sublease

6 **48 Dictionary, definition of *owner***

7 *substitute*

8 *owner*, of land, includes—

9 (a) a lessee; and

10 (b) for land under a land sublease—the sublessee.

11 **49 Dictionary, new definition of *parcel***

12 *insert*

13 *parcel*, of land under a territory lease, includes land under a land
14 sublease.

1 **Part 9 First Home Owner Grant Act 2000**

2 **50 Ownership of land and homes**

3 **New section 5 (2) (aa)**

4 *insert*

5 (aa) a leasehold interest under a land sublease;

6 **51 New section 5 (6)**

7 *insert*

8 (6) In this section:

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

1 **Part 10** **Land Tax Act 2004**

2 **52 Dictionary, new definition of *land sublease***

3 *insert*

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

6 **53 Dictionary, definition of *owner*, new paragraph (e)**

7 *insert*

8 (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).

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

3 *before note 1, insert*

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

6 **57 New sections 88A to 88J**

7 *insert*

8 **88A Application of land sublease provisions**

9 (1) Section 88B to section 88J do not apply to—

10 (a) a sublease of land granted before the commencement of this
11 section; or

12 (b) if a units plan subdivides a parcel of land under a declared land
13 sublease—a lease granted or arising under the *Unit Titles*
14 *Act 2001*.

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

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

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

1 **88B Land subleases—registration**

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

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

8 **88C Land subleases—mortgages**

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

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

15 (2) In this section:

16 *mortgage* includes an encumbrance.

17 *mortgagee* includes an encumbrancee.

18 **88D Land subleases—transfers**

19 (1) The registrar-general must not register a memorandum of transfer of
20 a land sublease unless—

21 (a) the sublessor consents, in writing, to the transfer; and

22 (b) the registrar-general tells the planning and land authority, in
23 writing, about the transfer.

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

- 1 (2) For subsection (1) (a)—
- 2 (a) the sublessee must request the sublessor’s consent in writing;
- 3 and
- 4 (b) within 10 working days after receiving the request, or any
- 5 longer period agreed by the sublessee and sublessor, the
- 6 sublessor may, in writing, ask the sublessee to give the
- 7 sublessor information about the following:
- 8 (i) the proposed transferee’s financial standing, including
- 9 details of any approved finance of the proposed
- 10 transferee;
- 11 (ii) the proposed use of the land under the sublease by the
- 12 proposed transferee;
- 13 (iii) the proposed transferee’s ability to comply with the
- 14 conditions of the sublease; and
- 15 (c) if the sublessor has mortgaged the land under the Crown lease
- 16 and the consent of the sublessor’s mortgagee is required under
- 17 the mortgage to the transfer of a sublease of the land—
- 18 (i) the sublessor must—
- 19 (A) tell the sublessor’s mortgagee that the request by the
- 20 sublessee has been made and of the terms of the
- 21 request; and
- 22 (B) if asked by the mortgagee—ask the sublessee for
- 23 the information mentioned in paragraph (b) and give
- 24 the information to the mortgagee; and
- 25 (ii) the sublessor’s mortgagee must consent or refuse consent
- 26 (including reasons for the refusal), in writing, to the
- 27 sublessor and the sublessee within 10 working days
- 28 after—
- 29 (A) being told about the sublessee’s request; or

- 1 (B) if the mortgagee asks for information under
2 paragraph (c) (i) (B)—receiving the information;
3 and
- 4 (iii) the sublessor must consent or refuse consent (including
5 reasons for the refusal), in writing, to the sublessee; and
- 6 (d) if paragraph (c) does not apply—the sublessor must consent or
7 refuse consent (including reasons for the refusal), in writing,
8 within 10 working days after—
- 9 (i) receiving the sublessee’s request; or
- 10 (ii) if the sublessor asks for information under
11 paragraph (b)—receiving the information; and
- 12 (e) the sublessee is responsible for the reasonable costs of the
13 sublessor, and the sublessee’s mortgagee, in making a decision
14 about whether to consent to the transfer of the sublease (not
15 including any costs incurred in relation to an order under
16 subsection (3) (c) (ii)).
- 17 *Note* If no time is provided for doing a thing under this subsection, the thing
18 must be done as soon as possible (see [Legislation Act](#), s 151B).
- 19 (3) For subsection (2) (c) and (d)—
- 20 (a) a person to whom a request for consent is made (the *request*
21 *receiver*) is taken to have consented to the proposed transfer if
22 the request receiver does not consent or refuse consent within
23 the relevant period mentioned in subsection (2) (c) (ii) and (d);
24 and
- 25 (b) a request receiver may only refuse consent if the request
26 receiver has reasonable grounds for believing—
- 27 (i) the proposed transferee is not financially sound; or
- 28 (ii) the proposed transferee intends to use the land under the
29 sublease for a purpose not allowed under the sublease; or

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

23 **88E Land subleases—no further subleases**

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

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

1 **88F Land subleases—surrender**

2 A sublessee may surrender a land sublease—

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

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

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

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

11 **88G Withdrawal of land under land sublease**

12 (1) This section applies if—

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

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

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

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

23 (3) In this section:

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

1 **88H Surrender etc of land sublease—payment for**
2 **improvements**

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

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

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

- 1 (3) Subsection (4) applies if—
- 2 (a) a sublease ends; and
- 3 (b) the sublessee has not given the sublessor at least 6 month's
- 4 written notice before the sublease ended, or any shorter period
- 5 agreed by the sublessee and sublessor, that the sublessee did
- 6 not intend to apply for a further sublease.
- 7 (4) The sublessor may deduct the amount of any expenditure reasonably
- 8 incurred by the sublessor in subleasing the land, or part of the land,
- 9 under the old sublease to someone else from the amount payable by
- 10 the sublessor to the sublessee under this section.
- 11 (5) The sublessor must give the sublessee a notice stating the amount
- 12 worked out for subsection (2) and subsection (4) (if any) and how
- 13 the amount is worked out.
- 14 (6) In this section:
- 15 *improvement*, in relation to land, means a building or structure on or
- 16 under the land.
- 17 **88I ACAT review of value of improvements on land under**
- 18 **land sublease etc**
- 19 (1) This section applies if—
- 20 (a) a sublessor is liable to pay an amount under section 88H; and
- 21 (b) the sublessor gives the sublessee a notice under
- 22 section 88H (5).
- 23 (2) The sublessee may apply to the ACAT for review of the amount (the
- 24 *original amount*).
- 25 (3) On application, the ACAT must—
- 26 (a) make a decision substituting an amount for the original
- 27 amount; or

1 (b) confirm the original amount.

2 **88J Recovery of land under land sublease if sublessee in**
3 **unlawful possession**

4 (1) This section applies if a person who has been a sublessee under a
5 land sublease remains in possession of the land after—

6 (a) the term of the sublease has ended; or

7 (b) the sublease has been surrendered or ended.

8 (2) The sublessor, by written notice to the person (the *unlawful*
9 *occupier*), may demand that the unlawful occupier give possession
10 of the land to the sublessor within a reasonable period stated in the
11 demand.

12 (3) If a demand is not complied with—

13 (a) the sublessor may apply to the Magistrates Court for an order
14 that possession of the land be given to the sublessor; and

15 (b) the court may issue a warrant authorising a police officer,
16 within 20 working days after the day the warrant is issued, to
17 enter the land with the assistance and by the force that is
18 reasonable, and give possession of the land to the sublessor.

19 **58 Covenants of lessees**
20 **New section 119 (2)**

21 *insert*

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

23 **59 Powers in lessor**
24 **New section 120 (1A)**

25 *insert*

26 (1A) This section does not apply to a land sublease.

1 **60 Dictionary, note 2**

2 *insert*

- 3 • ACAT

4 **61 Dictionary, new definitions**

5 *insert*

6 *building sublease*—see the *Planning and Development Act 2007*,
7 dictionary.

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

10 **62 Dictionary, definition of *instrument***

11 *omit*

12 sublease

13 *substitute*

14 land sublease, a building sublease

15 **63 Dictionary, new definitions**

16 *insert*

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

19 *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)

- 1 **67 New section 17 (4)**
- 2 *insert*
- 3 (4) In this section:
- 4 *relevant interest*, in a lease of a unit, means—
- 5 (a) a mortgage of the lease of the unit; and
- 6 (b) if the unit is in a units plan that subdivides a parcel of land
- 7 under a declared land sublease—
- 8 (i) the Crown lease; or
- 9 (ii) if the Crown lessee has mortgaged the land under the
- 10 Crown lease—the Crown lessee’s mortgage.
- 11 **68 Duties of registrar-general on registration of order**
- 12 **Section 18 (1) (d)**
- 13 *substitute*
- 14 (d) enter on each folio of the register in relation to the new
- 15 certificate of title, a memorial of any easement or relevant
- 16 interest in the lease of the unit which applies to the lease under
- 17 section 17 and, if the lease is subject to 2 or more relevant
- 18 interests, enter the memorials in a way that preserves their
- 19 priority.
- 20 **69 New section 18 (5)**
- 21 *insert*
- 22 (5) In this section:
- 23 *relevant interest*, in a lease of a unit—see section 17 (4).

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

3 *substitute*

4 (1) This section applies if—

5 (a) the planning and land authority grants further leases under the
6 *Planning and Development Act 2007*, section 254 (Grant of
7 further leases) of the units and the common property forming
8 part of the registered units plan; or

9 (b) for a lease of a unit on a parcel of land under a declared land
10 sublease—the Crown lessee grants further leases under the
11 *Unit Titles Act 2001*, section 167AA of the units and the
12 common property forming part of the registered units plan.

13 **71 Dictionary, note 3**

14 *insert*

- 15
 - declared land sublease

1 **Part 13** **Leases (Commercial and Retail)**
2 **Act 2001**

3 **72** **What leases does this Act apply to?**
4 **New section 12 (6) (ba)**

5 *insert*

6 (ba) a land sublease; or

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

8 *insert*

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

1 **Part 14** **Legislation Act 2001**

2 **74** **Dictionary, part 1, definition of *territory lease*,**
3 **paragraph (b)**

4 *substitute*

5 (b) does not include—

6 (i) a sublease of land approved under the *Planning and*
7 *Development Act 2007*, section 308; or

8 (ii) any other sublease.

1 **Part 15** **Planning and Development**
2 **Act 2007**

3 **75** **Meaning of *development***
4 **Section 7 (2), definition of *subdivision*, paragraph (b)**

5 *substitute*

6 (b) does not include a sublease.

7 **76** **Form of development applications**
8 **New section 139 (2) (ba)**

9 *insert*

10 (ba) if the application relates to land under a land sublease and—

11 (i) the applicant is not the sublessee—also be signed by the
12 sublessee; and

13 (ii) the applicant is not the Crown lessee—also be signed by
14 the Crown lessee; and

15 **77** **Amending development applications**
16 **Section 144 (2)**

17 *substitute*

18 (2) However, the planning and land authority must not amend the
19 development application unless—

20 (a) the authority is satisfied that—

21 (i) the development applied for after the amendment will be
22 substantially the same as the development applied for
23 originally; and

24 (ii) the assessment track for the application will not change if
25 the application is amended; and

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

6 **78 Conditional approvals**

7 **New section 165 (2) (e)**

8 *after the notes, insert*

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

15 **79 End of development approvals for use under lease**

16 **without lease variation, licence or permit**

17 **Section 186 (1) (a)**

18 *after*

19 lease

20 *insert*

21 or declared unit title lease

22 **80 New section 186 (2) (f)**

23 *before the note, insert*

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

- 1 **81 New section 186 (5) (d)**
- 2 *before the examples, insert*
- 3 (d) for a declared unit title lease—a further lease is granted under
- 4 the *Unit Titles Act 2001*, section 167AA.
- 5 **82 Section 186 (7), new definition of *declared unit title lease***
- 6 *insert*
- 7 *declared unit title lease* means a lease of a unit or common property
- 8 in a units plan that subdivides land under a declared land sublease.
- 9 **83 Applications to amend development approvals**
- 10 **New section 197 (3) (c)**
- 11 *insert*
- 12 (c) if the application relates to land under a land sublease and—
- 13 (i) the applicant is not the sublessee—also be signed by the
- 14 sublessee; and
- 15 (ii) the applicant is not the Crown lessee—also be signed by
- 16 the Crown lessee.
- 17 **84 Section 197 (4)**
- 18 *after*
- 19 subsection (3) (b) (i)
- 20 *insert*
- 21 or (c)

1 **85 Development applications for developments undertaken**
2 **without approval**
3 **Section 205 (3)**

4 *after*

5 land

6 *insert*

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

8 **86 Definitions—ch 9**
9 **Section 234, definition of *subdivision*, paragraph (b)**

10 *substitute*

11 (b) does not include the subdivision of land—

12 (i) under the *Unit Titles Act 2001*; or

13 (ii) by the grant of a sublease.

14 **87 Section 234, definition of *sublessee***

15 *omit*

16 **88 Access to leased land from roads and road related areas**
17 **Section 248 (2)**

18 *omit*

19 by the planning and land authority

20 **89 Grant of further leases**
21 **Section 254 (1) (a), new note**

22 *insert*

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

1 **90 New section 254 (1A)**

2 *insert*

3 (1A) For a lease granted or arising under the *Unit Titles Act 2001*—

4 (a) the owners corporation for a units plan may apply on behalf of
5 an owner of a unit for the grant of a further lease of the unit;
6 and

7 (b) relating to a units plan that subdivides land under a declared land
8 sublease—the owners corporation may only apply for the grant of
9 a further lease under the *Unit Titles Act 2001*, section 167AA.

10 **91 Consent to s 265 dealings**
11 **Section 266 (2)**

12 *omit*

13 sublet the lease

14 *substitute*

15 grant a sublease

16 **92 Section 308**

17 *substitute*

18 **308 Power of Crown lessee to sublet part of land**

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

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

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

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

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

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

7 (6) Access provided because of subsection (3) (c) (ii)—

8 (a) must not interfere with a building, garden or stockyard on the
9 land (the *affected land*) through which the access is provided
10 at the time the access is provided; and

11 (b) must be located in a way that causes as little damage or
12 inconvenience to the sublessee, another sublessee or Crown
13 lessee of the affected land as possible.

14 (7) A regulation may prescribe—

15 (a) the form of a sublease; and

16 (b) a document that must accompany or be included in a sublease;
17 and

18 (c) a provision that must or must not be included in the sublease.

19 (8) A provision of a sublease that—

20 (a) is inconsistent with this Act or the *Land Titles Act 1925* is void
21 to the extent of the inconsistency; or

22 (b) allows the extension of the initial term of the sublease is void;
23 or

24 (c) allows the grant of a further sublease is void.

25 (9) Nothing in this Act, by itself, creates an obligation on a lessee under
26 a sublease of land to grant the sublessee a further or new sublease.

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

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

3 **93 Access to lease documents and development agreements**
4 **New section 311 (2) (d)**

5 *insert*

- 6 (d) a land sublease.

7 **94 New part 9.13**

8 *insert*

9 **Part 9.13 Declared subleases of land**

10 **312B Declared Crown leases**

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

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

1 **312C** **Meaning of *declared land sublease***

2 (1) In this Act:

3 *declared land sublease*—

4 (a) means a land sublease under a declared Crown lease; and

5 (b) includes any new land sublease granted by the Crown lessee to
6 the sublessee over the land under a surrendered or expired
7 declared land sublease.

8 (2) In this section:

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

10 **95** **Definitions—ch 13**
11 **Section 407, definition of *eligible entity***

12 *substitute*

13 *eligible entity*, for a reviewable decision—

14 (a) means an entity mentioned in schedule 1, column 3 for the
15 decision; and

16 (b) for a reviewable decision in relation to a development
17 application or development approval if the applicant is not—

18 (i) the lessee—includes the lessee; and

19 (ii) for a land sublease, the sublessee—includes the
20 sublessee.

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

3 *insert*

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

1 **97 Dictionary, new definitions**

2 *insert*

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

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

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

9 **98 Dictionary, definition of *sublessee***

10 *omit*

1 **Part 16** **Planning and Development**
2 **Regulation 2008**

3 **99** **Details to be included in exemption assessment**
4 **application—Act, s 138B (2) (a) (iii)**
5 **New section 22 (a) (iii)**

6 *insert*

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

9 **100** **Preparation of EIS—Act, s 208 (1)**
10 **Section 50 (2) (c) (v) (A) and (B)**

11 *substitute*

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

18 **101** **Section 220 heading**

19 *substitute*

20 **220** **Criteria for giving approval of sublease of land—Act,**
21 **s 308 (3) (a)**

22 **102** **Section 220 (1) (b)**

23 *substitute*

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

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

10 **103 New section 221**

11 *insert*

12 **221 Prescribed matters in land sublease—Act, s 308 (7)**

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

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

17 **Examples—municipal services**

18 waste removal and recycling services, fire and other emergency services

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

- 22 (2) For this section, a ***utility service is available to the land under a***
23 ***land sublease*** if the service can be connected at the boundary of the
24 land sublease to enable the service to be provided on the land under
25 the land sublease.
- 26 (3) In this section:
- 27 ***electricity services*** means the services described in the [Utilities](#)
28 [Act 2000](#), section 6.
- 29 ***gas services*** means the services described in the [Utilities Act 2000](#),
30 section 9.

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

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

5 *telecommunications services* means communications carried by a
6 telecommunications network.

7 *utility services* means electricity services, gas services, sewerage
8 services, telecommunication services and water services.

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

11 **104 Schedule 1, section 1.110 (3), definition of lessee**

12 *substitute*

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

15 (a) means for land under a land sublease—the sublessee; and

16 (b) includes a person who, before the act or event, had entered into
17 an agreement with the lessee of the land giving the person a
18 right to the transfer of the lease but to whom no transfer had
19 been registered under the *Land Titles Act 1925* in accordance
20 with the agreement.

- 1 **105 Permitted variations to approved and exempt**
2 **developments**
3 **Schedule 1A, section 1A.11 (4)**
- 4 *omit*
- 5 **106 Schedule 1A, section 1A.11 (5), new definitions**
- 6 *insert*
- 7 *exemption declaration*—see schedule 1, section 1.100A (1) (b).
- 8 *lease* includes a land sublease.
- 9 **107 Matters exempt from third-party ACAT review**
10 **Schedule 3, part 3.2, item 6, column 2, paragraph (g) (iii)**
- 11 *after*
- 12 lease
- 13 *insert*
- 14 , or land sublease,
- 15 **108 Schedule 3, part 3.2, item 8, column 2, paragraph (e)**
- 16 *after*
- 17 lease
- 18 *insert*
- 19 , or land sublease,
- 20 **109 Dictionary, note 2**
- 21 *insert*
- 22
 - surveyor-general

1 **110 Dictionary, note 3**

2 *insert*

- 3 • declared land sublease
4 • land sublease

5 **111 Dictionary, definition of *block***

6 *substitute*

7 ***block*** means—

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

11 **112 Dictionary, new definition of *owner***

12 *insert*

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

1 **Part 17 Public Unleased Land Act 2013**

2 **113 Dictionary, new definition of *land sublease***

3 *insert*

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

6 **114 Dictionary, definition of *owner*, paragraph (a)**

7 *substitute*

8 (a) of land, means the lessee of the land (or for land under a land
9 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.

1 **Part 19** **Unit Titles Act 2001**

2 **120** **Parcels**
3 **Section 5, new note**

4 *insert*

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

6 **121** **Minor boundary changes**
7 **Section 16 (c)**

8 *after*

9 lease

10 *insert*

11 (or any declared land sublease)

12 **122** **New section 17A**

13 *insert*

14 **17A** **Unit title applications—land under declared land sublease**

15 (1) This section applies to an application to the planning and land
16 authority for approval of the subdivision of a parcel of land under a
17 declared land sublease.

18 (2) The Crown lessee must consent, in writing, to the application.

19 (3) For subsection (2)—

20 (a) the sublessee must request the Crown lessee's consent, in
21 writing; and

- 1 (b) within 10 working days after receiving the request, or any
2 longer period agreed by the sublessee and Crown lessee, the
3 Crown lessee may, in writing, ask the sublessee to give the
4 Crown lessee information about the following:
- 5 (i) the proposed subdivision of the land;
- 6 (ii) the use of the units in the units plan; or
- 7 (c) if the Crown lessee has mortgaged the land under the Crown
8 lease and the consent of the Crown lessee's mortgagee is
9 required under the mortgage to the application—
- 10 (i) the Crown lessee must—
- 11 (A) tell the Crown lessee's mortgagee that the request
12 by the sublessee has been made and of the terms of
13 the request; and
- 14 (B) if asked by the mortgagee—ask the sublessee for
15 the information mentioned in paragraph (b) and give
16 the information to the mortgagee; and
- 17 (ii) the Crown lessee's mortgagee must consent or refuse
18 consent (including reasons for the refusal), in writing, to
19 the Crown lessee and the sublessee within
20 10 working days after—
- 21 (A) being told about the sublessee's request; or
- 22 (B) if the mortgagee asks for information under
23 paragraph (c) (i) (B)—receiving the information;
24 and
- 25 (iii) the Crown lessee must consent or refuse consent
26 (including reasons for the refusal), in writing, to the
27 sublessee; and

- 1 (d) if paragraph (c) does not apply—the Crown lessee must
2 consent or refuse consent (including reasons for the refusal), in
3 writing, within 10 working days after—
- 4 (i) receiving the sublessee’s request; or
5 (ii) if the Crown lessee asks for information under
6 paragraph (b)—receiving the information; and
- 7 (e) the sublessee is responsible for the reasonable costs of the
8 Crown lessee, and the Crown lessee’s mortgagee, in making a
9 decision about whether to consent to the unit title application
10 (not including any costs incurred in relation to an order under
11 subsection (4) (c) (ii)).
- 12 *Note* If no time is provided for doing a thing under this subsection, the thing
13 must be done as soon as possible (see [Legislation Act](#), s 151B).
- 14 (4) For subsection (3) (c) and (d)—
- 15 (a) a person to whom a request for consent is made (the *request*
16 *receiver*) is taken to have consented to the unit title application
17 if the request receiver does not consent or refuse consent
18 within the relevant period mentioned in subsection (3) (c) (ii)
19 and (d); and
- 20 (b) a request receiver may only refuse consent if the request
21 receiver has reasonable grounds for believing—
- 22 (i) the proposed subdivision of the land, or the use of the
23 units in the units plan, will not be compatible with other
24 sublessees under the Crown lease; or
- 25 (ii) the sublessee is in breach of the sublease; and
- 26 (c) if a request receiver refuses consent—
- 27 (i) the sublessee may apply to the Magistrates Court for an
28 order that the request receiver has refused consent
29 otherwise than in accordance with this section; and

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

5 **123 Leases of units and common property**
6 **New section 33 (3A)**

7 *after the note, insert*

- 8 (3A) For subsections (2) and (3), registration of a units plan that
9 subdivides a parcel of land under a declared land sublease ends the
10 sublease.

11 **124 Part 12 heading**

12 *substitute*

13 **Part 12 Lease variations and grants of**
14 **further leases**

15 **125 Development applications to vary lease under Planning**
16 **and Development Act**
17 **New section 166 (1) (d)**

18 *insert*

- 19 (d) if the unit or common property lease is in a units plan that
20 subdivides a parcel of land under a declared land sublease—the
21 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

- 1 (b) for a further lease granted on application after the expiry of the
2 old lease—the day after the old lease expires.
- 3 (5) If the term of a further lease granted under subsection (2) is not
4 longer than the term of the old lease, the Crown lessee may not
5 require the sublessee, the owners corporation or a unit owner to pay
6 any amount for the grant of the further lease that is more than the
7 cost of granting the further lease.
- 8 (6) If the Crown lessee refuses to grant the further leases for which the
9 owners corporation has applied—
- 10 (a) the Crown lessee must give the owners corporation reasons for
11 the refusal, in writing; and
- 12 (b) the owners corporation may apply to the ACAT for an order
13 requiring the Crown lessee to grant the further leases on the
14 terms the ACAT considers appropriate.
- 15 (7) If further leases are granted, the sublessee, owners corporation and
16 unit owners are not liable to pay the Crown lessee for the
17 improvements on the land or part of the land.
- 18 (8) In this section:
- 19 **improvement**, in relation to land—see the *Land Titles Act 1925*,
20 section 88H (6).
- 21 **non-residential unit leases** means leases of units and common
22 property under a units plan that authorises non-residential use of the
23 units.
- 24 **old leases** means leases of units and common property under a units
25 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).

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

3 **Examples—par (c) (ii)**

- 4 1 deal with a mortgagee in relation to the unit to obtain the mortgagee's
5 consent to the application for the further lease
6 2 sign on behalf of a unit owner any document required by the registrar-
7 general to ensure the grant of a further lease

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

10 *Note 2* An example is part of the Act, is not exhaustive and may extend,
11 but does not limit, the meaning of the provision in which it
12 appears (see [Legislation Act](#), s 126 and s 132).

13 (3) Subsection (4) applies if—

- 14 (a) the owners corporation gives the registrar-general a further
15 lease notice; and
16 (b) the certificate of title, or other evidence of title, for a lease to
17 which the further lease notice relates is not given to the
18 registrar-general within 28 days after the further lease notice is
19 given to the registrar-general.

20 (4) For the [Land Titles Act 1925](#), section 86 (5) (Surrender of lease), the
21 certificate of title for the lease is taken to have been given to the
22 registrar-general.

23 **167B Declared land subleases—surrender of leases in units**
24 **without grant of further leases**

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

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

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

4 **128 Effects of lease expiry**
5 **Section 168 (1) (c) and (2)**

- 6 *after*
7 Territory
8 *insert*
9 (or, if the units plan subdivides a parcel of land under a declared
10 land sublease, the Crown lessee)

11 **129 New section 168 (2A) to (2C)**

- 12 *insert*
13 (2A) The value of the amount mentioned in subsection (1) (c) must be
14 worked out under the *Planning and Development Act 2007*,
15 section 295 as if the Territory (or, if the units plan subdivides a
16 parcel of land under a declared land sublease, the Crown lessee)
17 were the planning and land authority.
18 (2B) Subsection (2C) applies if—
19 (a) the term of a lease of a unit or common property in a units plan
20 that subdivides a parcel of land under a declared land sublease
21 expires; and
22 (b) the owners corporation has not given the Crown lessee at least
23 6 month's written notice before the lease expired that the
24 owners corporation did not intend to apply for a further lease
25 under section 167AA.

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

6 **130 Effect of termination of unit lease**
7 **Section 170 (2), note**

8 *substitute*

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

13 **131 New unit lease—schedule of unit entitlement**
14 **Section 172 (2), note**

15 *substitute*

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

20 **132 Dictionary, new definitions**

21 *insert*

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

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

25 ***declared land sublease***—see the *Planning and Development*
26 *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

- 1 (iii) the *Planning and Development Act 2007*, section 254
2 (Grant of further leases); or
- 3 (c) for a parcel—
- 4 (i) the lease of the parcel—
- 5 (A) granted under the *Planning and Development*
6 *Act 2007*; or
- 7 (B) arising under section 162 (Cancellation of units
8 plan—effects) of this Act; or
- 9 (ii) if the parcel is land under a declared land sublease—the
10 declared land sublease.
- 11 **termination**, of a lease of a unit, does not include the termination of
12 the lease on surrender under—
- 13 (a) the *Planning and Development Act 2007*, section 254 (Grant of
14 further leases); or
- 15 (b) for leases under a units plan that subdivides land under a
16 declared land sublease—section 167AA.

1 **Part 20** **Unit Titles (Management)**
2 **Act 2011**

3 **135 Corporate register—information to be included**
4 **New section 114 (2) (c)**

5 *insert*

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

9 **136 Corporate register—provision of information**
10 **Section 115 (1) (a)**

11 *omit*

12 agreeing

13 *substitute*

14 entering into an agreement

15 **137 New section 115 (2A)**

16 *insert*

17 (2A) The Crown lessee for a declared land sublease must give the owners
18 corporation for the units plan written notice of the details of any of
19 the following events within 14 days after the event happens:

20 (a) the Crown lessee entering into an agreement to transfer an
21 interest in the Crown lease to someone else (the *new owner*);

22 (b) the lodgment for registration of the transfer;

23 (c) a change in the Crown lessee's name or address for
24 correspondence.

1 **138 Dictionary, new definition of *declared land sublease***

2 *insert*

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

1 **143 Endorsement of units plans—Act, s 27 (2)**
2 **Section 9 (2)**

3 *substitute*

4 (2) The documents must be signed by—

5 (a) the lessee of the parcel; and

6 (b) if the parcel is land under a declared land sublease—the Crown
7 lessee.

8 **144 Dictionary, note 3**

9 *insert*

- 10 • Crown lessee
11 • declared land sublease

1 **Part 23** **Water and Sewerage Act 2000**

2 **148 Dictionary, new definition of *land sublease***

3 *insert*

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

6 **149 Dictionary, definition of *owner***

7 *substitute*

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

10 (a) the occupier, lessee, tenant or holder of the premises or land;
11 and

12 (b) for land under a land sublease or premises on the land—the
13 sublessee.

1 **Part 24** **Water and Sewerage**
2 **Regulation 2001**

3 **150 Dictionary, note 3**

4 *insert*

- 5 • land sublease
6 • owner

7 **151 Dictionary, new definition of *parcel***

8 *insert*

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

1 **Part 25** **Water Resources Act 2007**

2 **152 Dictionary, new definition of *land sublease***

3 *insert*

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

6 **153 Dictionary, definition of *owner***

7 *substitute*

8 *owner*, of land, includes—

9 (a) the lessee of the land; or

10 (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 2015.

3 Republications of amended laws

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

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