

2011

LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY

Planning and Development Amendment Regulation 2011 (No 2)

SL2011-37

EXPLANATORY STATEMENT

Presented by  
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This Explanatory Statement relates to the *Planning and Development Amendment Regulation 2011 (No 2)* (the amending regulation).

## **Overview**

The *Planning and Development Act 2007* provides that a regulation can prescribe the types of lease variations that are chargeable variations under section 276E of the Act. The amount for a section 276E chargeable variation is prescribed in a determination (or schedule) and is a disallowable instrument.

Section 170A of the regulation prescribes that a lease variation for a *retirement complex* is a chargeable variation. *Retirement complex* is defined as having the same meaning as in the Territory Plan.

The determination that lists the charges for all chargeable variations uses the term *retirement complex*. On the 4 November 2011 a Territory Plan Variation changed the label for *retirement complex* to *retirement village* and also changed the substance of the definition. This means that the Territory Plan definition is no longer appropriate.

Because of the changes to the Territory Plan definition, from *retirement complex* to *retirement village*, the regulation needs to define the meaning of *retirement complex*.

The amending regulation inserts a definition for *retirement complex* into the regulation. This means that s170 of the regulation will not reference the Territory Plan (as it does now) rather the section itself will contain the definition. The definition for *retirement complex* has the same meaning as it did prior to the change in the Territory Plan.

A regulatory impact statement is not required as the amending regulation maintains the existing definition and relocates it from the Territory Plan into the regulation.

## **Outline of Provisions**

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

Names the regulation as the *Planning and Development Amendment Regulation 2011 (No 2)*.

### **Clause 2 Commencement**

Provides that the regulation commences on the day after its notification.

### **Clause 3 Legislation amended**

States that the regulation amends the *Planning and Development Regulation 2008*.

### **Clause 4 Section 100, definition of *retirement complex***

Clause 4 inserts a definition for *retirement complex* at section 100. Section 100 contains definitions for part 5.1 (Direct sale of leases) of the regulation. The existing definition for *supportive accommodation* includes *retirement complex* as defined in

the Territory Plan. Because of the changes to the Territory Plan there is no longer a definition of retirement complex in the Plan.

Clause 4 provides that for the purposes of part 5.1 of the regulation *retirement complex* has the same meaning as defined in section 170A of the regulation. Section 170A is amended by clause 6 of the amending regulation.

**Clause 5 Section 100, definition of *supportive accommodation***

Clause 5 substitutes the existing definition for *supportive accommodation* with a new definition.

The existing definition of *supportive accommodation* includes *retirement complex*, as defined in the Territory Plan. Because of the recent changes to the Plan there is no longer a definition for *retirement complex* in the Plan. Rather this has been replaced by *retirement village*.

The amending regulation defines *supportive accommodation* to include both *retirement complex*, as defined in amended section 170A, and *retirement village*, as defined in the amended Territory Plan. This is appropriate as both a retirement complex and retirement village can include types of housing used for supportive accommodation e.g. self-care units.

**Clause 6 Section 170A, definition of *retirement complex***

Clause 6 substitutes the existing definition for *retirement complex* with a new definition.

The existing definition of retirement complex relies on the definition in the Territory Plan. Because of the recent change to the Plan a definition for retirement complex is no longer included in the Plan. Rather this has been replaced by retirement village. However, retirement village has a different meaning to retirement complex.

The amending regulation inserts a definition for retirement complex into the regulation (opposed to referring to the Territory Plan). The definition has the same meaning as it did in the Territory Plan.

A new *Note* is included to provide that self-care units that are part of a retirement complex may also be within the meaning of retirement village as defined in the Territory Plan. For example, self-care units in a retirement complex may also be defined as a retirement village if those units are managed by a retirement village scheme.

**Clause 7 Dictionary, new definition of *retirement complex***

Clause 7 inserts a new definition for retirement complex for part 5.1 (Direct sale of leases) into the dictionary. The definition refers to the meaning at section 100.

Section 100 is amended by this amending regulation and provides that retirement complex has the same meaning as defined at section 170A of the regulation.