

BUILDINGS (DESIGN AND SITING)

No. 20 of 1964.

An Ordinance relating to the Design and Siting of Buildings.

Short title.

1. This Ordinance may be cited as the *Buildings (Design and Siting) Ordinance* 1964.

Commencement.

2. This Ordinance shall come into operation on a date to be fixed by the Minister by notice in the *Gazette*.†

Definitions.

3. In this Ordinance, unless the contrary intention appears—

“alteration”, in relation to a building, means an alteration to the external design of the building;

“building” includes—

(a) a structure upon or attached to land;

(b) an addition to the exterior of a building; and

(c) a structure attached to a building visible from outside the building;

“external design”, in relation to a building, includes any matters affecting the appearance of the exterior of the building;

“structure” includes a fence, mast, antenna, aerial or advertising device, notice or sign;

“the City Area” means the area that is the City Area for the purposes of the *City Area Leases Ordinance* 1936-1963;

“the Commission” means the National Capital Development Commission;

“the proper authority” means the proper authority appointed under the *Building Ordinance* 1964.

Application of Ordinance.

4.—(1.) Subject to the next succeeding section, this Ordinance does not apply to or in relation to buildings outside the City Area, or buildings on land in the City Area that is not the subject of a lease or tenancy granted by the Commonwealth.

(2.) This Ordinance does not apply to or in relation to the erection or completion of a building in accordance with a permit issued by the proper authority before the commencement of this Ordinance.

Regulations may apply the Ordinance to land outside the City Area.

5.—(1.) This Ordinance extends to an area of land outside the City Area which is declared by the regulations to be an area of land to which this Ordinance applies.

* Made on 14 September, 1964; notified in the *Commonwealth Gazette* on 24 September, 1964.

† The date fixed was 12 August, 1965; See *Commonwealth Gazette*, 12 August, 1965, p. 3593.

(2.) The Minister shall not make regulations for the purposes of the last preceding sub-section unless he is satisfied that it is desirable so to do for the purpose of securing the carrying out or observance of the policies of the Commission with respect to the planning and development of the City of Canberra.

6.—(1.) Subject to this Ordinance, the Commission is authorized— Powers of Commission.

- (a) to grant (either absolutely or subject to conditions) or refuse approval of proposals with respect to the external design and the siting of buildings and of proposals with respect to alterations affecting the external design and the siting of buildings;
- (b) to exercise all other powers expressed by this Ordinance to be exercisable by the Commission; and
- (c) to grant (either absolutely or subject to conditions) or refuse an application, for the purposes of section sixteen of the *Building Ordinance* 1964, for the approval of the Commission with respect to the external design and siting of a building or an alteration to a building.

(2.) The Commission shall not refuse an approval under this Ordinance unless the Commission is satisfied that it is necessary to do so for the purpose of securing the carrying out or observance of the policies of the Commission with respect to the planning and development of the City of Canberra.

7. The erection or alteration of a building shall not be commenced, carried on or completed except in conformity with proposals approved in writing by the Commission with respect to the external design and the siting of the building, or of the building as proposed to be altered, and with any conditions subject to which the approval has been given. Buildings not to be erected except with approval of Commission.

8. The proper authority shall not—

- (a) approve the design of a proposed building or of a proposed alteration of a building, or issue a permit in respect of a proposed building or a proposed alteration of a building, under the Canberra Building Regulations unless proposals with respect to the external design and the siting of the proposed building, or of the building as proposed to be altered, have been approved by the Commission and the building or alteration to which the approval or permit relates is to be in accordance with those proposals; or

Powers of the proper authority.

- (b) except in accordance with the last preceding paragraph, refuse an application for an approval or permit under the Canberra Building Regulations by reason of the external design or the siting of a proposed building, or of a building as proposed to be altered, except where the proper authority is satisfied that it is necessary to do so—
- (i) in order to prevent a contravention of a provision of those regulations or of some other law or the terms and conditions of a lease or tenancy granted by the Commonwealth; or
 - (ii) in the interests of the health or safety of persons or property.

Procedure in connexion with applications for approval.

9.—(1.) For the purposes of this Ordinance, the submission under the Canberra Building Regulations to the proper authority of plans and specifications by or on behalf of the holder of the lease or tenancy from the Commonwealth of the land, or, in the case of land held in fee simple, by or on behalf of the owner of the land, on which the building is to be erected, or on which the building proposed to be altered is erected, as the case may be, shall be deemed to be an application to the Commission for its approval under this Ordinance.

(2.) For the purposes of this Ordinance, the Commission shall have full access to plans and specifications submitted to the proper authority.

(3.) Where the Commission considers that the plans and specifications so submitted are not adequate for the purposes of an approval under this Ordinance, the proper authority may require the applicant to submit further plans, specifications or information.

Design and Siting Review Committee.

10.—(1.) For the purposes of this Ordinance, there shall be a Committee to be known as the Design and Siting Review Committee.

(2.) The Committee shall consist of three members namely:—

- (a) a chairman;
- (b) a member of the National Capital Planning Committee; and
- (c) a person representing the Royal Australian Institute of Architects.

(3.) There shall be a deputy of the chairman and a deputy of each other member of the Committee.

(4.) The deputy of the member referred to in paragraph (b) of sub-section (2.) of this section shall also be a member of the National Capital Planning Committee.

(5.) The members of the Committee and the deputies of those members shall be appointed by the Minister and shall hold office for such period, not exceeding three years, as is specified in the instrument of appointment and, subject to this section, are eligible for re-appointment.

(6.) The member of the Committee referred to in paragraph (b) of sub-section (2.) of this section and the deputy of that member are eligible, on the expiration of their terms of office, for re-appointment if they are then members of the National Capital Planning Committee.

(7.) A person is not eligible for appointment (including appointment by way of re-appointment) as the member representing the Royal Australian Institute of Architects or as the deputy of that member unless—

- (a) the person is a member of that Institute; and
- (b) subject to the next succeeding sub-section, his name is included on a panel of five names submitted to the Minister by that Institute in relation to the appointment or re-appointment.

(8.) Paragraph (b) of the last preceding sub-section does not apply—

- (a) if the Institute referred to in that sub-section does not, within the time specified by the Minister in a request to the Institute to furnish a panel of five names, furnish the panel; or
- (b) in any case in which the Minister considers that there are special circumstances that justify the appointment or re-appointment of a person whose name is not included in the panel of names submitted by the Institute.

(9.) A deputy of a member of the Committee may in any case where that member is unable to attend a hearing by reason of illness or other unavoidable cause or where the office of the member is vacant, attend a hearing of the Committee, and shall at that hearing have all the powers and may exercise all the functions of that member.

(10.) A member of the Committee or a deputy of a member is not eligible to act as a member of the Committee in any matter coming before the Committee in which the member or the deputy is, either directly or indirectly, financially interested

and, if both a member and the deputy are so interested, the Minister may appoint another person to act as a member of the Committee in that matter.

Remuneration.

11. The members and deputy members of the Committee shall be paid such fees (if any) and allowances (if any) as the Minister determines.

**Termination
of office of
members and
deputy
members.**

12. The Minister may, by instrument in writing under his hand, remove from office a member or a deputy of a member of the Committee—

- (a) if the member or the deputy becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) if the member or the deputy resigns his office by writing under his hand addressed to the Minister;
- (c) if the member or the deputy becomes incapable of performing his duties; or
- (d) in the case of a member referred to in paragraph (b) or (c) of sub-section (2.) of section ten of this Ordinance or the deputy of such a member, if the member or the deputy ceases to be a member of the National Capital Planning Committee or the Royal Australian Institute of Architects, as the case may be.

**Review of
refusal by
Commission.**

13.—(1.) Where the Commission has refused an application for approval under this Ordinance, or has granted such an approval subject to conditions, the person who lodged the application may, within fourteen days after the date of notice of the Commission's decision or within such further time as the Minister may, in a particular case, allow, lodge with the Secretary to the Department of the Interior an application in writing for a review by the Committee of the Commission's decision.

(2.) The Committee shall hear and determine an application under the last preceding sub-section and, for that purpose, has the power to summon witnesses, require the production of books and documents and take evidence on oath.

(3.) The Committee shall, if satisfied that it is necessary to secure the carrying out or observance of the policies of the Commission with respect to the planning and development of the City of Canberra that effect be given to the Commission's

decision, dismiss the application, but, if not so satisfied, the Committee shall direct the Commission to grant approval or to vary the conditions subject to which the approval was granted, as the case requires.

(4.) The Committee may, if it is satisfied that the application if amended in a manner specified by the Committee will not prevent the carrying out or observance of the policies of the Commission with respect to the planning and development of the City of Canberra, direct that if an application amended in the manner so specified is submitted, the Commission shall approve the application as so amended.

(5.) The Commission shall give effect to the Committee's directions.

(6.) A decision of a majority of the members of the Committee shall be deemed to be a decision of the Committee.

14. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance. **Regulations.**
