



AUSTRALIAN CAPITAL TERRITORY

Buildings (Design and Siting) (Amendment) Act 1993

No. 30 of 1993

An Act to amend the *Buildings (Design and Siting) Act 1964* and for related purposes

[Notified in ACT Gazette S89: 1 June 1993]

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

Short title

1. This Act may be cited as the *Buildings (Design and Siting) (Amendment) Act 1993*.

Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Principal Act

3. In this Act, “Principal Act” means the *Buildings (Design and Siting) Act 1964*.¹

Interpretation**4. Section 3 of the Principal Act is amended—**

- (a) by omitting “upon or attached to” from paragraph (a) of the definition of “building” and substituting “on or under”;
- (b) by omitting the definition of “external design” and substituting the following definition:

“ ‘external design’ means—

- (a) any matter affecting the appearance of a building including—
 - (i) any alteration to the exterior of a building;
 - (ii) the demolition or partial demolition of a building;
 - (iii) any sign affixed to, or created on, the exterior of a building or erected adjacent to a building; and
 - (iv) any excavation (other than an excavation for the purpose of the construction of the building) or any other modification to the landscape of the parcel of land on which the building is built or is proposed to be built;
- (b) any matter affecting—
 - (i) the appearance of, or works for or in connection with the construction or provision of, a structure; and
 - (ii) in the case of the construction of a channel, tunnel or the provision of gas, water, sewerage or electrical services—works for the excavation, construction or installation of the channel or tunnel, or those services; and
- (c) any excavation of, or other modification to, a parcel of land, other than an excavation referred to in subparagraph (a) (iv), that would significantly alter the topography of the land;

but does not include prescribed works;”;

- (c) by omitting “or sign” from the definition of “structure” and substituting “, sign, road, footpath, lane, culvert or car park (other than a car park that is constructed of 1 or more storeys)”;

- (d) by omitting the definition of “the Building Controller”; and
- (e) by inserting the following definitions:
 - “ ‘Building Controller’ has the same meaning as in the *Building Act 1972*;
 - ‘development’, in relation to land, means—
 - (a) the erection, alteration or demolition of a building on that land;
 - (b) the carrying on of work on that land;
 - (c) the use or change of use of a building or works on that land;
 - (d) the subdivision or consolidation of that land; or
 - (e) the display of signs or advertising material on that land;
 - ‘implementation plan’ means a proposal to carry out works to develop a specified area of Territory Land;
 - ‘public works’ means installation work or construction work being carried out, or that is to be carried out, by or on behalf of the Territory, but does not include—
 - (a) work to maintain or restore public property, other than property of heritage significance;
 - (b) work carried out in an emergency in order to protect the health or safety of the public, or for the protection of public property; or
 - (c) any prescribed work or work included in a prescribed class of works;”.

Application of Part VI of the Land Act

- 5. Section 6 of the Principal Act is amended—
 - (a) by omitting “the external design and siting of a building” (first occurring) and substituting “any development of land involving any aspect of external design and siting”;
 - (b) by omitting from paragraphs (a) and (b) “the external design and siting of a building” and substituting “the commencement of any development of land involving any aspect of external design and siting”; and

(c) by adding at the end the following subsection:

“(2) Sections 229 and 276 of the applied Part do not apply in relation to a proposed development if, when application is made under section 226 of the applied Part, the implementation plan in relation to that development has been approved by the Minister under section 6AC.”.

Insertion

6. After section 6 of the Principal Act the following sections are inserted:

Public works—implementation plans

“6AA. (1) A person who proposes to carry out public works for the development of a specified area of Territory Land may submit to the Authority an implementation plan.

“(2) An implementation plan shall—

- (a) contain a sufficient description of the nature and extent of the proposed development to reasonably enable a person to assess the potential effects of the development; and
- (b) specify the period within which it is proposed the development be carried out and, if the development is to be carried out in stages, the period within which each stage is proposed to be carried out.

“(3) Before considering an implementation plan, the Authority shall cause to be published in the *Gazette* and in a daily newspaper, a notice—

- (a) stating that copies of the implementation plan are available for public inspection and can be purchased at specified places; and
- (b) inviting interested persons to submit written comments about the implementation plan to the Minister at a specified address and within a period of not less than 21 days.

“(4) The Authority shall make copies of the implementation plan available for public inspection and purchase during office hours during the period (being a period of not less than 21 days), and at the places, specified in the notice.

Consideration by Authority

“6AB. (1) The Authority may—

- (a) after the expiration of the period referred to in subsection 6AA (4); and
- (b) after consultation with the proponent of the relevant implementation plan submitted under subsection 6AA (1);

revise the plan.

“(2) The Authority shall submit the implementation plan, or if the plan has been revised, the revised plan, to the Minister, together with a written report setting out the issues raised in any written comments concerning the implementation plan made pursuant to the invitation in the relevant notice under paragraph 6AA (3) (b).

Consideration by Minister

“6AC. On receipt of an implementation plan under subsection 6AB (2), the Minister shall—

- (a) approve the implementation plan in the form in which it was submitted to the Minister;
- (b) return the implementation plan to the Authority together with any or all of the following written directions:
 - (i) to conduct further specified consultation;
 - (ii) to consider any relevant environmental report, the report of any relevant Inquiry conducted under Division 4 of Part IV of the Land Act, or any other relevant report;
 - (iii) to consider any revision suggested by the Minister;
 - (iv) to revise the implementation plan in a specified manner; or
- (c) reject the implementation plan.

Notification of approval of implementation plan

“6AD. (1) Where the Minister approves an implementation plan under section 6AC, the Minister shall cause to be published in the *Gazette* and in a daily newspaper, a notice—

- (a) stating that the implementation plan specified in the notice has been approved; and
- (b) containing a statement to the effect that—
 - (i) sections 229 and 276 of the applied Part do not apply in relation to the development to which the approved implementation plan relates; and
 - (ii) copies of the implementation plan are available for public inspection and may be purchased at specified places.

“(2) The Minister shall make copies of an approved implementation plan available for public inspection and purchase during office hours during the period (being a period of not less than 21 days), and at the places, specified in the notice.

Notification of rejection of implementation plan

“6AE. Where the Minister rejects an implementation plan under section 6AC, the Minister shall cause to be published in the *Gazette* and in a daily newspaper, a notice containing—

- (a) a statement that the implementation plan specified in the notice has been rejected; and
- (b) particulars of the *Gazette* and newspaper in which a notice in relation to the implementation plan was published under subsection 6AA (3).”.

Repeal

7. Section 7 of the Principal Act is repealed.

Application

8. (1) The amendments effected by this Act do not apply to the external design or siting of a building, the building work in respect of which commenced before the commencement of this section.

(2) In this section—

“building work” has the same meaning as in the *Building Act 1972*.

NOTE

1. Reprinted as at 31 August 1992. See also Act No. 70, 1992.

[Presentation speech made in Assembly on 1 April 1993]