

1999

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

LAND (PLANNING AND ENVIRONMENT) (AMENDMENT) BILL (NO) 1999

EXPLANATORY MEMORANDUM

**Circulated by Authority of
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Minister for Urban Services**

Outline

The Land (Planning and Environment) (Amendment) Bill (No.) 1999 (the Bill) amends certain provisions of the Land (Planning and Environment) Act 1991 (the Principal Act).

The Principal Act establishes a methodology for the assessment and imposition of a charge on any variation of a Crown lease. The charge is known as a 'change of use charge'.

The Bill provides for amendments to:

- change the general rate of charge ('CUC') payable under the Act;
- remove the "sunset" provisions that require the rate of charge to become 100% of assessed added value on 31 August 1999; and
- provide for regulations remitting or increasing the CUC to commence in the normal way.

In May 1999, Professor Des Nicholls presented to the Government a report entitled "A Study of Betterment and the Change of Use Charge in the Australian Capital Territory – Its Impact on Investment and a Consideration of Options". In that Report he recommended that, in the short term, the general rate of CUC should be 50%.

Essentially, this Bill gives effect to that recommendation. However, in order to establish the general rate as a stable position to apply while the longer-term recommendations of the Nicholls Report are debated, it is also necessary to remove from the Act two related provisions. Sections 184B and 187B require the general rate of CUC to change to 100% of added value on 31 August 1999. Their repeal allows the new rate of 50% to apply indefinitely.

The Bill also amends sections 184C and 187C of the Act by omitting provisions that have the effect of delaying the commencement of regulations for increases or remissions of change of use charge. Under the repealed provisions, those regulations could not commence until they could have been disallowed in accordance with the *Subordinate Laws Act 1989*. Their omission allows those regulations to commence in the usual manner.

Financial Implications

The Bill may have some positive revenue impact if changes to the charges imposed on lease variations result in increased development activity.

CLAUSE NOTES

Clauses 1 and, 2 - Short Title, and Commencement - are machinery provisions that specify the short title of the Bill, and provide for the commencement of the Bill.

Clause 3 – Act amended - identifies the Act being amended as the *Land (Planning and Environment) Act 1991*.

Clause 4 – Variation of nominal rent lease – change of use charge - amends subsection 184A(2) by changing the 'general' rate of change of use charge from 75% to 50%. A new subsection 184A(6) allows the new rate of charge to apply to any lease variation, except where the lessee has not paid the determined change of use charge. Subsection 184A(7) has been inserted to ensure that subsection (6) remains in the Act only for so long as it is required.

Clause 5 – Repeal – Section 184B is repealed. That section provides for the rate of change of use charge, set out in subsection 184A(2), to become 100%, rather than 75%, on 31 August 1999. This amendment ensures that the change does not happen.

Clause 6 – Variation of nominal rent leases – remission or increase of change of use charge - amends section 184C by omitting subsection (5). The effect of this amendment is that regulations providing for an increase or remission of change of use charge may commence in the manner normally provided for by the *Subordinate Laws Act 1989*, rather than the longer period required by the repealed subsection.

Clause 7 – Consolidation and subdivision – change of use charge - amends subsection 187A(2) by changing the 'general' rate of change of use charge from 75% to 50%. A new subsection 187A(6) allows the new rate of charge to apply to any lease variation, except where the lessee has not paid the determined change of use charge. Subsection 187A(7) has been inserted to ensure that subsection (6) remains in the Act only for so long as it is required.

Clause 8 - Repeal - Section 187B is repealed. That section provides for the rate of change of use charge, set out in subsection 187A(2), to become 100%, rather than 75%, on 31 August 1999. This amendment ensures that the change does not happen.

Clause 9 – Consolidation and subdivision – remission or increase of change of use charge - amends section 187C by omitting subsection (5). The effect of this amendment is that regulations providing for an increase or remission of change of use charge may commence in the manner normally provided for by the *Subordinate Laws Act 1989*, rather than the longer period required by the repealed subsection.