

1995

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

LAND (PLANNING AND ENVIRONMENT) ACT 1991

LAND (PLANNING AND ENVIRONMENT) REGULATIONS (AMENDMENT)

EXPLANATORY MEMORANDUM

Circulated by authority of Gary Humphries MLA

Minister for the Environment, Land and Planning

Outline

The Land (Planning and Environment)(Amendment) Regulations (the Regulations) amend certain provisions of the Land (Planning and Environment) Regulations (the Principal Regulations).

Paragraph 184(b) of the Land (Planning and Environment) Act 1991 (the Act) provides that the Executive shall not execute a variation of a lease of Territory Land unless the lessee has paid to the Executive an amount determined by the Executive as prescribed in respect of the increase in the value of the lease that would result from the variation. That amount is generally referred to as 'betterment'.

In the Principal Regulations, the amount of betterment is determined in accordance with regulations 12, 13 and 14.

On 14 September 1993, the former Minister for the Environment, Land and Planning announced a number of changes to betterment charges. The changes provided, *inter alia*, that:

- unless otherwise specified, a general betterment rate of 100 per cent of the added value arising from the variation would apply to lease variation applications made after 14 September 1993;
- the potential for a lease to be varied to allow other rights would not be taken into account in calculating the added value for the purposes of regulation 12; and
- lessees in the Division of Fyshwick would not be subject to the changes provided they applied to vary their lease on or before 14 September 1994.

Subordinate Law No. 53 of 1993, which commenced on 24 December 1993, amended the Principal Regulations in accordance with the announcement by the former Minister on 14 September 1993, with the exception that they did not specify that the Principal Regulations as amended by Subordinate Law No. 53 of 1993 would:

- generally not apply to applications for variation of leases made on or before 14 September 1993; and
- not apply to applications for variation of leases in the Division of Fyshwick made on or before 14 September 1994.

The Regulations amend the Principal Regulations to give effect to the former Government's intentions as announced by the former Minister on 14 September 1993.

Financial Implications

The Regulations will have the effect of reducing the amount of betterment which would have been received from lease variations made on or before 14 September 1993, or applications relating to the Division of Fyshwick made on or before 14 September 1994, which are affected by the operation of Subordinate Law No. 53 of 1993.

CLAUSE NOTES

Clauses 1 and 2

Clauses 1 and 2 are machinery provisions that provide for the commencement of these Regulations, and identify the Regulations being amended.

Clause 3 - Insertion

Clause 3 provides for the insertion of regulation 11A into the Principal Regulations.

For the purposes of regulation 11A, an application is an 'old application' if it was lodged on or before 14 September 1993 or, in the case of land in the Division of Fyshwick, on or before 14 September 1994.

Regulation 11A provides that, if an application is not an 'old application', betterment will be determined in accordance with regulations 12, 13 and 14 of the Principal Regulations.

In respect of an 'old application', betterment will be determined in accordance with regulations 12, 13 and 14 and Schedule 3 as in force immediately before the commencement of Subordinate Law No. 53 of 1993.

Clause 4 - Interpretation

Clause 4 amends the Principal regulations by omitting subregulation 12(1) of the Principal Regulations. Subregulation 11A(1) now provides for the method of determination of the prescribed amount for the purposes of paragraph 184(b) of the Act.

Clause 5

Clause 5 repeals regulation 7 of Subordinate Law No. 53 of 1993, which specified the delayed commencement date in respect of lease variations relating to the Division of Fyshwick. The effect of this repeal is that Fyshwick leases are now dealt with only in the new regulation 11A.