

1993

**AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY**

**BUILDINGS (DESIGN AND SITING) (AMENDMENT) BILL 1993**

**EXPLANATORY MEMORANDUM**

**Circulated by the Authority of the Minister for the Environment, Land and Planning**

**Bill Wood MLA**

## **BUILDINGS (DESIGN AND SITING) (AMENDMENT) BILL 1993**

This Bill amends the *Buildings (Design and Siting) Act 1964* ("the Design and Siting Act") to extend the definition of "external design" to cover development works not related to the erection of a building; provides for the making of implementation plans; and makes the controlled activity to which the Act relates, "development of land involving any aspect of external design and siting", instead of the present activity - "the external design and siting of a building".

### **OUTLINE**

The *Buildings (Design and Siting) Act 1964* provides for the approval of the external design and siting of buildings in the Territory. Part VI of the *Land (Planning and Environment) Act 1991* ("the Land Act") applies to applications under the Design and Siting Act by virtue of section 6 of the Design and Siting Act. The external design and siting of a 'building' is treated as if it were a controlled activity for the purposes of Part VI of the Land Act. The Bill extends the controlled activity by providing that any aspect of external design and siting relating to a development proposal is subject to approval.

The Bill also extends the definition of "external design and siting" so that all development works, whether or not they involve the erection of a building, are subject to design and siting control.

The Bill provides for the making of implementation plans which describe proposed public works in sufficient detail to permit members of the community to be able to assess the potential effects of the proposed development and have the opportunity to comment at a point where public consultation can be most effective. There is a formal process for making draft implementation plans available for public comment, and for the Minister to approve the implementation plan after consideration of public comment. Development applications for individual public works projects flowing from the approved implementation plan are exempt from objection and appeal.

### **FINANCIAL IMPLICATIONS**

There will be some small increase in revenue flowing to the Territory from applications by private enterprise developers to construct roads, bridges, car parks and to undertake infrastructure works, all of which presently escape the approvals and orders provisions of the Design and Siting Act. There are likely to be significant improvements to budgeting and programming of major works due to the implementation plan system, but there will be some costs related to the preparation and publication of implementation plans. The system will provide greater certainty for the development of public works because the public consultation process can be completed well in advance of any commitment of funds or the scheduling of works programs.

## **FORMAL AND TECHNICAL MATTERS**

### ***Clauses 1, 2 and 3***

Clauses 1 and 2 provide for the citation and commencement of the Bill.

Clause 3 defines the Principal Act.

### ***Clause 8 - Application***

Clause 8 is a transitional provision that provides that amendments to the Design and Siting Act do not apply to building works commenced before the commencement of subclause 8(1).

## **MAIN AMENDMENTS**

### ***Clause 4 - Substitution of the definition of 'external design'***

Section 3 of the Design and Siting Act is an interpretation provision and defines "building" as including a structure upon or attached to the land. The Bill amends the definition to provide for structures on or under the land.

Clause 4 also provides for an extension of the definition of external design and siting to include works, other than works related to the erection of a building, and includes excavation, construction and installation works relating to channels and tunnels and extends the definition of structure to include roads, footpaths, lanes, culverts, and car parks other than structured car parks.

Clause 4 also inserts a definition of 'implementation plan' and provides for 'development' to have the same meaning as in the Land Act.

Clause 4 defines 'public works' as meaning installation or construction work carried out by or on behalf of the Territory. The same definition is found in Part II of the Land Act.

### ***Clause 5 - Application of Part VI of the Land Act***

Clause 5 amends section 6 of the Design and Siting Act by redefining the nature of the activity being regulated through the controlled activity process. It omits "...the external design and siting of a building..." as the controlled activity under Part VI of the Land Act, and substituting "...any development of land involving any aspect of external design and siting..." as the controlled activity subject to the approvals and orders process.

Clause 5 also amends section 6 of the Design and Siting Act by inserting new subsection 6(2) to provide that sections 229 and 276 of the applied Part do not apply to an application relating to the external design and siting of a proposed public works

development where that development has been the subject of an implementation plan approved by the Minister. The effect of this amendment will be to provide greater certainty for public works in the budgetary and programming stages where timing may be critical.

*Clause 6 - Implementation Plans - submission to Authority*

Clause 6 inserts new provisions establishing an implementation plan process.

New section 6AA describes the nature and content of the implementation plan, provides for it to be publicly notified and to be available for public inspection for not less than 21 days.

New section 6AB provides for the Authority to revise the implementation plan after the public consultation process is complete, and after consultation with the proponent, and imposes an obligation on the Authority to submit the plan or the revised plan to the Minister together with a report on written comments received as a result of public consultation.

New section 6AC provides for the Minister to approve the implementation plan or to return the plan to the Authority with directions to undertake further consultation; consider any relevant environment report, consider any revision suggested by the Minister, and/or further revise the plan as specified by the Minister. The Minister may also reject the implementation plan.

New section 6AD requires the Minister to publicly notify the approval of an implementation plan, and to make the plan available for public inspection for a period of not less than 21 days.

*Clause 7 - Repeal*

Clause 7 amends the Design and Siting Act by repealing section 7 of the Principal Act. Section 7 operates to prohibit the erection or alteration of a building without design and siting approval. The provisions of section 7 are redundant because of section 225 of the Land Act which makes it an offence to carry on a controlled activity without approval, and section 31 of the *Building Act 1972* which acts to prevent the approval of building plans without the prior approval of the external design and siting of the building by the Authority.