

2003

LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY

PLANNING AND LAND LEGISLATION  
AMENDMENT BILL 2003

EXPLANATORY STATEMENT

Circulated by authority of the  
Minister for Planning  
Mr Simon Corbell MLA

## PLANNING AND LAND LEGISLATION AMENDMENT BILL 2003

### Outline

The *Planning and Land Legislation Amendment Bill 2003* provides for:

- The amendment of the *Planning and Land Act 2002*;
- The repeal of the *Gungahlin Development Authority Act 1996*;
- The repeal of the *Kingston Foreshore Development Authority Act 1999*; and
- A small number of other minor matters.

The principle purpose of this Bill is to insert a new Chapter 6 into the Planning and Land Act to provide for the repeal of the Kingston Foreshore Development Authority Act and the Gungahlin Development Authority Act, and for:

- the transfer of assets, rights and liabilities of those authorities in the land agency established under Chapter 4 of the Planning and Land Act; and
- the final reports and financial statements of the repealed authorities.

Schedule 1 to the Bill contains a number of further amendments to several Acts:

- The *Land (Planning and Environment) Act 1991* is amended to remove references to the Gungahlin Development Authority, and to make some minor corrections. A new section 293 is inserted into the Act, to provide for the continuation by the Planning and Land Authority of proceedings by or against the Commissioner for Land and Planning, following the abolition of that position under the *Planning and Land (Consequential Amendments) Act 2002*.
- Several minor errors in the *Planning and Land Act 2002* are corrected.
- The *Public Sector Management Act 1994* is amended to remove a reference to the Gungahlin Development Authority.
- The *Taxation (Government Business Enterprises) Act 2003* is amended to replace references, to the Gungahlin Development Authority and the Kingston Foreshore Development Authority, with a reference to the Land Development Agency.

### Financial Implications

Nil.

## CLAUSE NOTES

### PART 1 – PRELIMINARY

**Clauses 1 and 2 – Name of Act and commencement** – are machinery provisions that specify the name of the Act and provide for the commencement of its provisions.

### PART 2 - PLANNING AND LAND ACT 2002

**Clause 3 – Act amended** – specifies that Part 2 amends the Planning and Land Act 2002.

**Clause 4 – New chapter 6** – inserts a new chapter 6 – Transitional provisions - into the Planning and Land Act.

Part 6.1 contains interpretation provisions for Part 6.

Section 78 - defines **repealed Act** and **repealed authority** for this chapter. They refer to the Kingston Foreshore Development Act and the Gungahlin Development Authority Act, and the respective authorities established by those Acts.

Part 6.2 applies to the vesting of assets, rights and liabilities.

Section 79 – Vesting of assets, rights and liabilities – vests all of the assets, rights and liabilities of the repealed authorities in the Land Development Agency. However, the Minister may, by a notifiable instrument, exclude an asset from vesting in the land agency. If an asset has been so excluded, it vests in the Territory.

Section 80 – Registration of changes in ownership of certain assets – applies if an asset vests under section 79, when information about the ownership of that asset may be registered in a statutory property register. The section requires the person responsible for such a register (upon application) to make entries in the register to reflect the vesting of assets under section 79. However, the entry or omission of information under this section does not affect the evidentiary value of the register. While the section relates primarily to the land titles register, it might apply to any appropriate register.

Section 81 – Evidentiary certificate for vested assets and liabilities – empowers the chief executive officer of the land agency to certify that an asset has vested in the agency under section 79.

Section 82 – Proceedings and evidence – substitutes the land agency as a party to proceedings begun before the Planning and Land Act commences, and to which a repealed authority is a party.

Section 82(2) provides for a proceeding to be brought against the land agency if a cause of action accrued against a repealed authority, the proceeding had not commenced, and the limitation period for the cause of action had not ended.

Section 82(3) applies part 3 of the *Limitation Act 1985* to the land agency as if the cause of action for the proceeding had been accrued by, or accrued against, the land agency.

Section 82(4) allows the entity before which a proceeding to which this section applies to make directions about the proceeding.

Section 82(5) continues the admissibility of evidence for or against the land agency.

Section 82(6) continues the effect of orders made in respect of a proceeding by or against a repealed authority.

Section 82(7) defines **proceeding** and **repealed Acts** for this section.

Part 6.3 provides for the furnishing of reports and financial statements of repealed authorities.

Section 83 – Continuation of repealed authorities for annual reports – continues in existence a repealed authority for the purposes of provision of reports under the *Annual reports (Government Agencies) Act 1995*, for the period immediately before the commencement of the Planning and Land Act. The relevant annual reporting provisions in the repealed Acts are continued for that purpose.

Section 83(5) requires a repealed authority to provide a financial statement under section 59 of the *Financial Management Act 1996*.

Section 84 continues the position of chief executive officer of both repealed authorities to enable them to meet the requirements of section 83.

Part 6.4 inserts two further provisions into Chapter 6 of the Planning and Land Act.

Section 85 – transitional regulations – provides for regulations to prescribe any transitional matters in relation to the enactment of the Planning and Land (Consequential Amendments) Act. Regulations may also modify the operation of the Planning and Land Act to allow for the proper operation of either of those Acts.

Section 86 provides that Chapter 6 expires 1 year after it commences.

## PART 3 – REPEALS AND FURTHER AMENDMENTS

**Clause 5 - Repeal of Acts** – repeals the Gungahlin Development Authority Act 1996 No.38 and the Kingston Foreshore Development Authority Act 1999 No.89.

**Clause 6 – Repeal of instruments** – repeals a number of instruments under the Gungahlin development Authority Act, to give full effect to the repeal of the Act and the cessation of the authority.

**Clause 7 – Further instruments** – states that Schedule 1 sets out amends to other Acts and regulations.

### Schedule 1 – Further amendments

#### **Part 1.1 – Land (Planning and Environment) Act 1991**

Clause 1.1 – section 229(4)(ac) – removes the requirement to give to the Gungahlin Development Authority for comment a copy of a development application that relates to the Gungahlin central area.

Clause 1.2 – section 246(1)(b)(i) – corrects a typographical error by removing the words “(other than an application”.

Clause 1.3 – section 283(1) – replaces the subsection. Essentially, the part of that subsection, referring to the authorisation of the Gungahlin Development Authority to act on its behalf in certain matters, has been removed. The subsection has been recast for clarity.

Clause 1.4 – Section 283(3) – has been removed as a consequence of the redrafting of section 283(1).

Clause 1.5 – New section 293 - substitutes the another entity, as appropriate, as a party to proceedings begun before the Planning and Land Act commences, and to which the Commissioner for Land and Planning is a party.

Section 293(3) provides for a proceeding to be brought against the substituted entity if a cause of action accrued against the commissioner, the proceeding had not commenced, and the limitation period for the cause of action had not ended.

Section 293(4) applies part 3 of the *Limitation Act 1985* to the substituted entity as if the cause of action for the proceeding had been accrued by, or accrued against, substituted entity.

Section 293(5) allows the entity before which a proceeding to which this section applies to make directions about the proceeding.

Section 293(6) continues the admissibility of evidence for or against the substituted entity.

Section 293(7) continues the effect of orders made in respect of a proceeding by or against the commissioner.

Section 293(8) defines **commissioner** and **proceeding** for this section.

Clause 1.6 – Dictionary, definition of Gungahlin central area – removes the definition from the Act.

### **Part 1.2 – Planning and Land Act 2002**

Clause 1.7 – Section 48(4)(a) and (b) – corrects a minor error in the provision.

Clause 1.8 – Section 48(5) – corrects an incorrect reference to an earlier subsection.

Clause 1.9 – Section 75(3), definition of *official*, paragraph (c) – adds “the land agency chief executive officer” to the definition, to ensure full application of the Act to that position.

### **Part 1.3 – Public Sector Management Act 1994**

Clause 1.10 – Section 5(i) and (j) – in effect, deletes the reference to the Gungahlin Development Authority.

### **Part 1.4 – Taxation (Government Business Enterprises) Regulations 2003**

Clause 1.11 – Regulation 4 – omits references to the Gungahlin development Authority and the Kingston Foreshore Development Authority and substitutes a reference to the Land development Agency.