

2004

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Ms Kerrie Tucker)

Land (Planning and Environment) (Unit Developments) Amendment Bill 2004

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(Ms Kerrie Tucker)

Land (Planning and Environment) (Unit Developments) Amendment Bill 2004

A Bill for

An Act to amend the *Land (Planning and Environment) Act 1991*, and for other
purposes

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

1 Name of Act

This Act is the *Land (Planning and Environment) (Unit Developments) Amendment Act 2004*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This Act amends the *Land (Planning and Environment) Act 1991*.

Note This Act also amends the *Unit Titles Act 2001* (see sch 1)

**4 Definitions for pt 5
Section 159**

insert

affordable housing—housing is ***affordable*** if a household in the lowest 40% of the distribution of household incomes is paying, for the housing, no more than 30% of household income in housing costs.

major unit development means—

- (a) a development consisting of at least 20 units; or
- (b) a unit development prescribed under the regulations for this section.

unit—see the *Unit Titles Act 2001*, section 9.

5 Granting of leases
New section 161 (2A)

insert

(2A) The planning and land authority may grant a lease authorising use of land for a major unit development only if—

(a) the lessee has entered into an agreement with the Territory to dedicate at least 10% of the development to be used for providing affordable housing and to ensure that the dedicated percentage of the development—

(i) is transferred, on completion of the development, to the commissioner for housing; or

(ii) is otherwise used, and continues to be used, after completion of the development for affordable housing; and

(b) the lease includes a provision requiring compliance with the agreement.

6 Section 161

renumber subsections when Act next republished under Legislation Act

7 Definitions for pt 6
Section 222

insert

affordable housing—housing is **affordable** if a household in the lowest 40% of the distribution of household incomes is paying, for the housing, no more than 30% of household income in housing costs.

major unit development means—

- 1 (a) a development consisting of at least 20 units; or
2 (b) a unit development prescribed under the regulations for this
3 section.

4 *unit*—see the *Unit Titles Act 2001*, section 9.

5 **8 New sections 245AA and 245AB**

6 *in subdivision 6.2.3, insert*

7 **245AA Conditional approvals—major unit developments**

- 8 (1) The relevant authority must include in the approval of an application
9 to undertake a major unit development a condition requiring the
10 applicant to either—
11 (a) dedicate a percentage of the development to be used for
12 providing affordable housing and to ensure that the dedicated
13 percentage of the development—
14 (i) is transferred, on completion of the development, to the
15 commissioner for housing; or
16 (ii) is otherwise used, and continues to be used, after
17 completion of the development for affordable housing; or
18 (b) pay an amount (the *affordable housing contribution*) to the
19 Territory.
20 (2) For subsection (1) (a), the percentage required to be dedicated must
21 be at least the lesser of—
22 (a) 10%; and
23 (b) a percentage decided as reasonable by the relevant authority
24 under subsection (4).
25 (3) For subsection (1) (b), the affordable housing contribution must be
26 at least the lesser of—

- 1 (a) 10% of the value of the development; and
2 (b) a percentage decided as reasonable by the relevant authority
3 under subsection (4).
- 4 (4) In deciding a reasonable percentage for subsection (2) (b) or (3) (b),
5 the relevant authority must consider—
- 6 (a) the extent of the need for affordable housing in the area; and
7 (b) the scale of the proposed development; and
8 (c) whether the proposed development is likely to reduce the
9 availability of affordable housing; and
10 (d) any dedication or contribution previously made by the
11 applicant under this section or section 161 (Granting of leases)
12 in relation to the area.
- 13 (5) This section does not prevent the imposition of any other condition
14 by the relevant authority under section 245.
- 15 (6) This section does not apply to an application to undertake a major
16 unit development if the land to be developed is land comprised in a
17 lease that is subject to a requirement under section 161 (2A).
- 18 (7) This section does not apply to an application made before the
19 commencement of this Act.
- 20 (8) This subsection and subsection (7) expire 1 year after the day they
21 commence.

22 **245AB Application of affordable housing contribution and use of**
23 **transferred units**

- 24 (1) The Territory must apply any affordable housing contribution under
25 section 245AA to the purpose of providing affordable housing
26 within a reasonable time after the contribution is made.

- 1 (2) The commissioner for housing must use units transferred under
2 section 161 (2A) (Granting of leases) or 245AA in the exercise of
3 the commissioner's functions in relation to programs and
4 arrangements for providing affordable housing.

Schedule 1 Amendments of Unit Titles Act 2001

(see s 3)

[1.1] New section 20 (1A)

insert

(1A) However, the planning and land authority may approve a unit title application for a major unit title development only if satisfied that—

- (a) the development is approved under the Land Act, part 6; and
- (b) the development is consistent with any requirement to which the lease is subject under the Land Act, section 161 (2A) (Granting of leases).

[1.2] New section 20 (7)

insert

(7) In this section:

major unit development—see the Land Act, section 159.

[1.3] Section 20

renumber subsections when Act next republished under Legislation Act

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2004.

2 Notification

Notified under the Legislation Act on 2004.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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