

2005

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Dr Deb Foskey)

Land (Planning and Environment) (Unit Developments) Amendment Bill 2005

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Land (Planning and Environment) (Unit Developments) Amendment Bill 2005

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 2005*.

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 10 units; or
- (b) a unit development prescribed by regulation for this definition.

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 a percentage of the completed development (at least 4%) to be used to provide 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 to provide affordable housing; and

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

Note Section 245AB (2) provides that the commissioner for housing must use units transferred in relation to programs and arrangements for providing affordable housing.

6 New section 161 (9)

insert

(9) In this section:

percentage, of a completed unit development, means a percentage of the total area of units and unit subsidiaries under the registered units plan for the development and does not include any common property under the units plan.

units plan means the units plan under the *Unit Titles Act 2001*, section 7.

1 *unit subsidiary*—see the *Unit Titles Act 2001*, section 12.

2 *common property*—see the *Unit Titles Act 2001*, section 13.

3 **7 Section 161**

4 *renumber subsections when Act next republished under Legislation*
5 *Act*

6 **8 Definitions for pt 6**
7 **Section 222**

8 *insert*

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

13 *major unit development* means—

14 (a) a development consisting of at least 10 units; or

15 (b) a unit development prescribed by regulation for this definition.

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

17 **9 New sections 245AA to 245AC**

18 *in subdivision 6.2.3, insert*

19 **245AA Conditional approvals—major unit developments**

20 (1) The relevant authority must include in the approval of an application
21 to undertake a major unit development a condition requiring the
22 applicant to either—

23 (a) dedicate a percentage of the completed development to be used
24 to provide affordable housing and to ensure that the dedicated
25 percentage of the development—

- 1 (i) is transferred, on completion of the development, to the
2 commissioner for housing; or
- 3 (ii) is otherwise used, and continues to be used, after
4 completion of the development to provide affordable
5 housing; or
- 6 (b) pay an amount (the *affordable housing contribution*) to the
7 Territory.
- 8 *Note* Section 245AB (1) provides that the Territory must apply the
9 contribution to providing affordable housing within a reasonable time.
- 10 (2) For subsection (1) (a), the percentage required to be dedicated must
11 be at least the greater of—
- 12 (a) 4%; and
- 13 (b) a percentage decided as reasonable by the relevant authority
14 under subsection (4).
- 15 (3) For subsection (1) (b), the affordable housing contribution must be
16 at least the greater of—
- 17 (a) 4% of the market value of the completed development; and
- 18 (b) a percentage decided as reasonable by the relevant authority
19 under subsection (4).
- 20 (4) In deciding a reasonable percentage for subsection (2) (b) or (3) (b),
21 the relevant authority must consider—
- 22 (a) the extent of the need for affordable housing in the area; and
- 23 (b) the scale of the proposed development; and
- 24 (c) whether the proposed development is likely to reduce the
25 availability of affordable housing; and
- 26 (d) any dedication or contribution previously made by the
27 applicant under this section or section 161 (Granting of leases)
28 in relation to the area; and

- 1 (e) the target set under section 245AC.
- 2 (5) This section does not prevent the imposition of any other condition
3 by the relevant authority under section 245.
- 4 (6) This section does not apply to an application to undertake a major
5 unit development if the land to be developed is land the lease for
6 which is subject to a requirement under section 161 (2A).
- 7 (7) In this section:
8 *percentage*, of a completed unit development—see section 161 (8).
- 9 (8) This section does not apply to an application made before the
10 commencement of this Act.
- 11 (9) This subsection and subsection (7) expire 1 year after the day they
12 commence.
- 13 **245AB Application of affordable housing contribution and use of**
14 **transferred units**
- 15 (1) The Territory must apply any affordable housing contribution under
16 section 245AA for providing affordable housing within a reasonable
17 time after the contribution is made.
- 18 (2) The commissioner for housing must use units transferred under
19 section 161 (2A) (Granting of leases) or section 245AA in the
20 exercise of the commissioner's functions in relation to programs and
21 arrangements for providing affordable housing.
- 22 **245AC Object and review of s 161 (2A) and s 245AB**
- 23 (1) The object of section 161 (2A), section 245AA and section 245AB
24 is to increase the amount of affordable housing in the ACT and, in
25 particular, to increase the stock of public housing in the ACT.
- 26 (2) For this object, a target is set that, within 10 years after the
27 commencement of this section, 10% of the value of all new major

- 1 unit developments will be being applied for providing affordable
2 housing.
- 3 (3) The Minister must review the operation of section 161 (2A), section
4 245AA and section 245AB in advancing the object of the sections as
5 soon as practicable after the 2nd anniversary of the day this section
6 commences.
- 7 (4) The review must consider and report on the scope and operation of
8 section 161 (2A), section 245AA and section 245AB taking into
9 account the target set in subsection (2).

1	Schedule 1	Amendment of Unit Titles Act
2		2001
3	(see s 3)	
4	[1.1]	New section 20 (1A)
5		<i>insert</i>
6	(1A)	However, the planning and land authority may approve a unit title
7		application for a major unit title development only if satisfied that
8		the development is approved under the Land Act, part 6.
9	[1.2]	New section 20 (7)
10		<i>insert</i>
11	(7)	In this section:
12		<i>major unit development</i> —see the Land Act, section 159.
13	[1.3]	Section 20
14		<i>renumber subsections when Act next republished under Legislation</i>
15		<i>Act</i>

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2005.

2 Notification

Notified under the Legislation Act on 2005.

3 Republications of amended laws

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

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