

Australian Capital Territory

LAND (PLANNING AND ENVIRONMENT) CRITERIA FOR DIRECT LEASE GRANT (ELIGIBLE INDEPENDENT FOR USE AS SERVICE STATION) DETERMINATION 2003*

Disallowable instrument DI2003-214

made under the

Land (Planning and Environment) Act 1991 section 161 (7)

The ACT Executive REVOKES instrument No 22 of 1994 and DETERMINES criteria for the direct grant of a Crown lease of land, to an Eligible Independent, for use as a Service station:

Definitions and Interpretation

In this Determination:

- (a) “applicant means the proposed lessee of the land;
- (b) “Eligible Independent” means a person who:
 - (i) is not a major oil company;
 - (ii) is not financed by a major oil company;
 - (iii) does not lease or licence its Service station infra-structure from, or otherwise have its Service station infra-structure provided by, a major oil company;
 - (iv) is not an employee or agent of a major oil company; or
 - (v) does not own, lease, licence or operate more than three Service stations in the Australian Capital Territory.
- c) “franchise agreement” means a “franchise agreement” as defined in the *Petroleum Retail Marketing Franchise Act 1980* (Cth) AND being a franchise agreement to which that Act applies.
- d) “major oil company” means a “prescribed corporation” as defined in the *Petroleum Retail Marketing Sites Act 1980* (Cth) except that the extension of that definition, contained in sub-section 3(4) of that Act, shall not apply.
- e) “Service station” has the same meaning as in the Territory Plan.
- f) “Territory Plan” means the Territory Plan in effect, from time to time, under the *Land (Planning & Environment) Act 1991*.

- g) The singular includes the plural and vice versa.
- h) A reference to a person includes a body corporate, an unincorporated body or other entity and vice versa.

Criteria

The applicant must complete and sign an application for the lease in the required form providing:

- particulars of the development proposal;
- full name and address of applicant;
- if the applicant comprises 2 or more persons, the form of tenancy, stating shares (if relevant);
- address for service of notices (if different to other address);
- company particulars including Australian Company Number, and details of directors, secretary and shareholders (both legal and beneficial);
- proof that the applicant is an Eligible Independent.

and demonstrating that the applicant:

- has the financial and other capacity to develop and manage the Service station, including details of expertise, resources and experience, and that the proposal will be economically viable in the long term;
- will act competitively in the ACT retail petrol market to endeavour to offer petrol for sale at a competitive and viable retail price;
- has the ability, determination and financial capacity to remain in the ACT retail petrol market as a competitive force;
- will not enter into a franchise agreement with a major oil company.

If the applicant is successful, the applicant:

- must pay the value for the lease, as determined by the Planning and Land Authority, as either a capital sum or land rent, whichever is applicable;
- must provide any Bank Undertaking required by the Planning and Land Authority; and
- must pay the fees and charges for the time being notified by the Planning and Land Authority as being applicable.

Mr Wood
Minister for Urban Services
8 July 2003

Mr Corbell
Minister for Planning
8 July 2003