1993

THE LEGISLATIVE ASSEMBLY OF THE AUSTRALIAN CAPITAL TERRITORY

BUILDINGS (DESIGN AND SITING) REGULATIONS (AMENDMENT)

EXPLANATORY MEMORANDUM

Circulated by the Authority of Bill Wood MLA
Minister for the Environment, Land and Planning

General Outline

These regulations amend the Buildings (Design and Siting) Regulations ("the Regulations").

The Buildings (Design and Siting) Act 1964 ("the Design and Siting Act") provides for the control of any development involving any aspect of the external design and siting of buildings and non-building works. Section 14 of that Act provides for the making of regulations which are necessary or convenient for carrying out or giving effect to the Act.

A number of changes are proposed to the Regulations.

Section 3 of the Design and Siting Act defines certain buildings and works which are subject to approval by the ACT Planning Authority. The Act provides that prescribed works are exempt from the requirement to obtain design and siting approval. Regulation 2A of the Design and Siting Regulations defines "prescribed works" as those works for which funding was authorised before 1 January 1994 from revenues, loans and other money received by the Territory.

The Regulations will be amended to extend the time in which the exemption from requiring design and siting approval applies, from 1 January 1994 to 1 May 1994.

Regulation 8A provides that applications for approval of the external design and siting of dwelling houses need not advertised in a daily newspaper and gives the applicant discretion in determining the method of notifying adjoining lessees of the application. It is necessary to prescribe a period in which objections to the application can be lodged under section 237 of the Land Act.

The Regulations will be amended to provide that objections must be lodged within 21 days from the date on which notice of the application is given.

Regulation 8 provides circumstances under which buildings which are prescribed under section 6AA of the Building Act 1972 remain subject to approval under the Design and Siting Act. The criteria set out in the Regulation are based on the Territory Plan as it was prior to 18 October 1993. The Plan which commenced on 18 October 1993 prescribes different criteria for side and rear setbacks and it is necessary to amend the regulation to achieve consistency between the Regulations and the Plan.

The Regulations will be amended to ensure that criteria under which design and siting approval is required for buildings which would otherwise be exempt under section 6AA of the Building Act, is consistent with the criteria provided in the Territory Plan.

Financial Implications

The regulations in relation to prescribed periods for objection are finance neutral. Those regulations relating to control over buildings otherwise exempt under the Building Act will provide some increase in revenue from application fees - balanced by invisibles related to administration costs. The regulations relating to exemption of certain public works from approval will result in savings due to reduced administration costs on the approval of minor public works which are intended to be fully exempt from control by 1 May 1994.

CLAUSE NOTES

Clauses 1 and 2

Clauses 1 and 2 are machinery clauses that provide for the commencement of the Regulations and specify the Principal Regulations.

Clause 3

Clause 3 amends Regulation 2A by omitting "1 January 1994" as the date on which works funded from ACT revenues cease to prescribed works and inserting a new date "1 May 1994".

Clause 4

Clause 4 inserts a new paragraph (ab) which provides that adjoining lessees wishing to object to an application under section 237 of the Land Act must do so within 21 days of being given notice of the application.

Clause 5

Clause 5 amends Regulation 8 to provide that a building is a prescribed building for the purposes of section 6AA of the Building Act 1972 unless-

(i)   the building is to be erected closer that 1.5 metres from a side boundary; or

(ii)   the building is to be erected closer than 3 metres from a rear boundary.