1994

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

BUILDINGS (DESIGN AND SITING) (AMENDMENT) BILL 1994

EXPLANATORY MEMORANDUM

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

Buildings (Design and Siting) (Amendment) Bill 1994

Outline

This is an amending Bill. It amends the Buildings (Design and Siting) Act 1964, referred to in the amending Bill as the Principal Act. The Act provides for the approval by the ACT Planning Authority ("the Authority") of any development involving any aspect of external design and siting.

The Bill removes certain words and phrases that presently indicate that the Authority may only give consideration to applications where the subject buildings or works have not commenced. Principally, the Bill provides for the Authority to be able to approve or refuse applications for the approval of development where the development has already been commenced or completed.

The Government is concerned about the number of unapproved buildings and structures in the Territory, and that there is presently no mechanism to allow them to be approved where they might otherwise comply with the law. Because landholders have no means of legitimising existing buildings and structures they tend to conceal them unless forced to declare them for conveyancing purposes or because the buildings are reported to or accidentally discovered by officers of the responsible authorities. The Government believes that present practices in the community in relation to unapproved buildings may create safety risks, are unsatisfactory both legally and administratively, and bring approvals and orders procedures into disrepute.

Revenue/ Cost Implications

To encourage landholders to declare unapproved buildings and structures it intended that no additional fees or charges be imposed on applications for approval of existing buildings and works. However, it is not anticipated that there will be any significant increase in applications, and the amendment is not expected to generate noticeable costs or revenues.

Formal Clauses

Clauses 1, 2, and 3 are formal requirements. They refer to the short title of the Bill, commencement, and definition of the Principal Act. The Bill commences on the date on which it is notified in the Gazette.

Application of Part VI of the Land Act

Clause 4 amends section 6 of the Act by removing reference to "a proposal for...... (any development of land...)" in subsection 1, and to "a proposed (development)" in subsection 2. Paragraphs 1(a) and (b) are also amended by removing the words

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"commencement of any" so as to make the controlled activity for the purposes of the applied Part "the development of land involving any aspect of external design and siting". The intention of Clause 4 is to permit the Act to apply to all relevant development, existing or proposed.

Insertion

Clause 5 inserts new section 6AAA. The purpose of this section is prevent the Authority from approving existing building work except where the Building Controller has firstly become aware that the work has been carried out without a building permit and the Controller has served notice on the applicant under section 46 of the Building Act 1972. This notice directs the applicant to submit plans for approval, obtain a building permit, and carry out such work as the Controller directs.

Power of the Minister to determine fees

Clause 6 removes the words "proposals for" so that Minister may determine fees for existing development as well as proposed development.

Renumbering of provisions

The Act has been subject of a series of amendments since 1992 and Clause 7 is a technical provision intended to ensure that Act is logically and uniformly numbered.

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