

1993

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

LAND (PLANNING AND ENVIRONMENT) CONSEQUENTIAL  
PROVISIONS) (AMENDMENT) BILL 1993

EXPLANATORY MEMORANDUM

Circulated by authority of

Bill Wood MLA

Minister for the Environment, Land and Planning

## **GENERAL OUTLINE**

The Land (Planning and Environment) (Consequential Provisions) Act 1991 ('the Act') provided the necessary consequential and transitional arrangements that were associated with the introduction of the Land (Planning and Environment) Act 1991 ('the Land Act').

The Land (Planning and Environment) (Consequential Provisions) (Amendment) Bill 1993 ('the Bill') amends the Act so that:

- . leases issued since the commencement of the Land Act under repealed legislation, are taken to have been granted under the Land Act. These leases were issued in relation to applications received before the Land Act commenced or in accordance with a provision of a pre-existing holding lease (a lease to allow land to be developed;
- . leases granted by the Commonwealth over National Land, under legislation reserved by the Commonwealth, are taken to have been granted under the Land Act if the land becomes Territory land; and
- . a delay in finalising the Heritage Places Register does not reduce the protection of places likely to be placed on the Register.

## **FINANCIAL IMPACT**

The amendment involves no direct cost to the Government.

## **NOTES ON CLAUSES**

Clause 1, 2 and 3 are formal

Clause 4: Applications

Clause 4 amends section 26 of the Act. So far as is relevant, section 26 provides that notwithstanding the repeal of legislation, a repealed Act shall continue to apply to applications made but not determined under that Act before the Land Act commenced. The repealed Acts are set out in Schedule 2 of the Act. Most of these leases are issued under the City Area Leases Act 1936.

The section is amended by adding new subsection (2) and (3).

New subsection (2) provides that leases or continuations are taken to have been granted under the Land Act. However, new

subsection 3 provides that this does not apply to a lease granted or continued under the;

- . Australian National University (Leases) Act 1967;
- . Canberra College of Advanced Education (Leases) Act 1977; and the
- . Church Land Leases Act 1924.

In addition the transitional provisions contained in Division 3 are saved.

**Clause 5: Insertion**

Clause 5 inserts new sections 27A and 27B of the Act. Specifically:

Land developed under holding leases.

New section 27A provides that where

- (a) a lease (known as a 'holding lease') was granted to enable the lessee to develop the land for subdivision and resale; and
- (b) where the holding lease specifies that a lease of land comprised in the holding lease shall be granted under a repealed Act

the lease shall be granted under the Land Act.

**Conversion of Commonwealth Leases**

New section 27B sets out what happens when leased land ceases to be National Land. This happens when a declaration under section 27(1) of the Australian Capital Territory (Planning and Land Management) Act 1988 has been rescinded, revoked, amended or varied by the Commonwealth.

If the lease was granted under:

- . the City Area Leases Ordinance 1936;
- . the Leases Ordinance 1918; and
- . the Leases (Special Purposes) Ordinance 1925

then the section provides that it will be taken to have been granted under the Land Act.

**Clause 6: Heritage places**

Clause 6 amends section 29 of the Act. At present section 29 provides that for a period of 12 months after the section commences, the ACT Planning Authority may make an order under the

Land (Planning and Environment) Act 1991 directing a person to stop or not to commence work affecting the external design and siting of a building if the building is built, or is intended to be built on a place that is proposed to be included in an Interim Heritage Places Register. The amendment extends the period to 18 months.

Clause 7: City Area Leases Act 1936

Clause 7 is consequential on the amendment to section 26. See clause 4.