

1990

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

INTERIM PLANNING (CONSEQUENTIAL AMENDMENTS) BILL 1990

EXPLANATORY MEMORANDUM

Circulated by Authority of the Chief Minister

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The Interim Planning (Consequential Amendments) Bill 1990

The Interim Planning Act 1990 provides for a Plan for the Territory and an Australian Capital Territory Planning Authority with various functions, including the function of preparing and administering a plan in respect of land.

The Interim Planning (Consequential Amendments) Bill 1990 amends various Acts in consequence of the Interim Planning Act 1990.

The Bill will have no effect on income or expenditure.

Details of the Interim Planning (Consequential Amendments) Bill 1990 are as follows:

Clause 1 deals with the short title and provides that the Bill may be cited as the Interim Planning (Consequential Amendments) Act 1990.

Clause 2 deals with commencement procedures.

Subclause 2(1) provides that clauses 1 and 2 of the Bill commence the day the Bill is notified in the Gazette.

Subclauses 2(2) provides that clause 3 of the Bill commences on the day specified as the end of the transition period under the Australian Capital Territory (Planning and Land Management) Act 1988 of the Commonwealth in the Proclamation of the Governor-General under section 57 of that Act.

Clause 3 deals with consequential amendments and provides that the Acts set out in the Schedule are to be amended as set out in the Schedule.

The Schedule

The Schedule amends the Building Act 1972, the Buildings (Design and Siting) Act 1964, the City Area Leases Act 1936, the Nature Conservation Act 1980, and the Electricity and Water Act 1988.

Building Act 1972

The Building Act 1972 is amended by omitting the definition of 'Interim Authority' from subsection 5(1) and inserting a definition of 'Territory Planning Authority'. 'Territory Planning Authority' is defined to mean the Australian Capital Territory Planning Authority. The Interim Authority will be replaced by the Territory Planning Authority.

Paragraph 31(1A)(b) of the Act is amended by omitting 'Interim' and substituting 'Territory Planning', as are subsections 31(1B), 31(3) and 31A(1). In paragraphs 43(1)(f) and 46(1)(e) 'Interim' is omitted and 'Territory Planning' substituted.

Buildings (Design & Siting) Act 1964

The Buildings (Design & Sitings) Act 1964 (the Act) is amended to reflect the repeal of the Interim Authority and the creation of the Territory Planning Authority. Consequently section 3, is amended to omit the definition of 'Interim Authority' and insert a definition of 'Territory Planning Authority'.

Other subsections similarly amended are 6(2), 6(3), 9(1), 9(2), 9(3), 10(1), 11(1) & 11(2), as well as section 7.

Subsection 6(1) is amended to omit "Subject to this Act, the Interim" and substitute "The Territory Planning".

Paragraphs 6(1)(a) & (b) and subparagraph 8(a)(i) are amended to reflect the change from Interim Authority to Territory Planning Authority.

Paragraph (c) of subsection 6(1) is omitted. It gave the Interim Authority, which has been repealed, power to grant or refuse an application submitted for its approval with respect to the external design and siting of a building or an alteration to a building.

Paragraph 6(3)(a) is amended to omit the paragraph and substitute a new paragraph. The former paragraph provided that the Authority would not grant an approval under the Act if that approval would be inconsistent with the Territory Plan or an NCDC policy within the meaning of the Australian Capital Territory (Planning & Land Management) Act 1988 of the Commonwealth. Since the establishment of the Planning Authority the provision with respect to the Territory Plan is no longer appropriate. The new paragraph provides that approvals not be inconsistent with the Plan established pursuant to the Interim Planning Act 1990 or, if such a plan is not yet established or contains no provision in relation to the relevant land, an NCDC policy within the meaning of Part X of the Australian Capital Territory (Planning & Land Management) Act 1988 of the Commonwealth.

City Areas Leases Act 1936

Paragraph 11A(2)(b) of the City Areas Leases Act 1936 is amended by omitting all the words from "inconsistent" and substituting new provisions. The former paragraph provided that leases not be varied if, under certain circumstances, the Minister filed a certificate stating that in his opinion the variation sought was inconsistent with the National Capital Plan, the Territory Plan or an NCDC policy within the meaning of Part III, Part IV and Part X, respectively of the Australian Capital Territory (Planning and Land Management) Act 1988 of the Commonwealth. As this is no longer appropriate, the new paragraph provides that the variation will only be affected if inconsistent with the Plan established pursuant to the Interim Planning Act 1990, the National Capital Plan within the meaning of the Australian Capital Territory (Planning and Land Management) Act 1988 of the Commonwealth, or - if either of those plans is not yet

established or if neither of them contains any provision in relation to the relevant land - an NCDC policy within the meaning of that Commonwealth Act.

Nature Conservation Act 1980

Paragraph 52C(2)(e) of the Nature Conservation Act 1980 is omitted. It provided that when plans of management with respect to certain reserved areas were prepared, regard should be had to the National Capital Plan, the Territory Plan or an NCDC policy, within the meaning of Part III, Part IV or Part X, respectively, of the ACT (Planning & Land Management) Act 1988 of the Commonwealth. As this is no longer appropriate, a new subsection 52C(3) is added to the section providing that the Conservator shall not prepare a plan of management inconsistent with the Plan established pursuant to the Interim Planning Act 1990, the National Capital Plan within the meaning of the Australian Capital Territory (Planning & Land Management) Act 1988 of the Commonwealth or, if either of those plans is not yet established or if neither of them contains any provision in relation to the relevant land - an NCDC policy within the meaning of that Commonwealth Act.

Electricity and Water Act 1988

Section 7 of the Electricity and Water Act 1988 (the Act) provides that nothing in the Act shall be taken to authorise a departure from, or the doing of anything inconsistent with, the Territory Plan or an NCDC policy, within the meaning of Part IV and Part X respectively of the ACT (Planning and Land Management) Act 1988 of the Commonwealth. This is no longer appropriate and is omitted and a new section inserted which provides that the Authority shall not do any act or authorise the doing of any act which is inconsistent with the Plan established pursuant to the Interim Planning Act 1990, the National Capital Plan within the meaning of the Australian Capital Territory (Planning and Land Management) Act 1988 of the Commonwealth or, if either of those plans is not yet established or if neither of them contains any provision in relation to the relevant land, an NCDC policy within the meaning of that Commonwealth Act.