

1991

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

LAND (PLANNING AND ENVIRONMENT)

(CONSEQUENTIAL PROVISIONS) BILL 1991

EXPLANATORY MEMORANDUM

Circulated by Authority of the Minister for the
Environment Land and Planning

**LAND (PLANNING AND ENVIRONMENT) (CONSEQUENTIAL PROVISIONS)
BILL 1991**

The Land (Planning and Environment) (Consequential Provisions) Bill 1991 (the Bill) specifies consequential and transitional arrangements that are necessary following the passage of the Land (Planning and Environment) Act 1991.

The commencement of the Land (Planning and Environment) Act 1991 will necessitates the amendment or repeal of certain Territory legislation and the Bill provides for such amendment or repeal.

The provisions of the Bill are detailed in the Attachment.

It is estimated that the Bill will not have any effect on revenue or expenditure.

ATTACHMENT

LAND (PLANNING AND ENVIRONMENT) (CONSEQUENTIAL PROVISIONS) BILL 1991

The Bill consists of four Parts.

PART 1 - PRELIMINARY

Part 1 consists of 3 clauses that specify the short title of the Bill; provide for the commencement of the Bill and defines certain terms for the purposes of the Bill.

PART II - AMENDMENTS

Part II consists of seven Divisions and specifies amendments to certain Acts that are necessary following commencement of the Land (Planning and Environment) Act 1991.

DIVISION 1

Division 1 consists of five clauses and specifies amendments to the Administrative Appeals Tribunal Act 1989.

Clause 4 applies Division 1 of Part II of the Bill to the Administrative Appeals Tribunal Act 1989.

Clause 5 provides for an amendment to subsection 24(6) of the Administrative Appeals Tribunal Act 1989. Section 24 of the Administrative Appeals Tribunal Act 1989 specifies that an Act or a subordinate law may provide for the administrative review by the Administrative Appeals Tribunal of decisions made by that Act or subordinate law. Subsection 24(6) specifies that an Act or subordinate law may also include provisions adding to, excluding or modifying the operation of the provisions listed in that subsection. Clause 5 will amend subsection 24(6) by inserting a reference to section 28. The effect of this amendment will be that in

addition to the provisions specified in subsection 24(6), an Act or subordinate law may add to, exclude or modify the operation of section 28 of the Administrative Appeals Tribunal Act 1989.

Clause 6 and 7 of the Bill will amend sections 25 and 28 of the Administrative Appeals Tribunal Act 1989 to widen the definition of the term 'person' for the purposes of those sections. Section 14 of the Interpretation Act 1967 defines the term 'person' to include a body politic or corporate as well as an individual.

- Clause 6 will amend section 25 of the Administrative Appeals Tribunal Act 1989 to insert a definition of 'person' to include an unincorporated association. Section 25 identifies who may apply to the Administrative Appeals Tribunal.
- Clause 7 will amend section 28 of the Administrative Appeals Tribunal Act 1989 by inserting a definition of the term 'person' to include an unincorporate association. Section 28 specifies the parties to a proceeding before the Administrative Appeals Tribunal.

Clause 8 amends section 39 of the Administrative Appeals Tribunal Act 1989 to give effect to the amendments proposed in Division 1 of Part II of the Bill by omitting the redundant words 'his or her'.

DIVISION 2

Division 2 consists of 3 clauses and specifies amendments to the Building Act 1972.

Clause 9 specifies that Division 2 of Part II of the Bill shall apply to the Building Act 1972.

Clause 10 amends section 31 of the Building Act 1972 by omitting subsections 31(1A), 31(1B), 31(2) and 31(3) and substituting a new subsection 31(2).

- Proposed new subsection 31(2) will prohibit the Building Controller from approving building plans in respect of building work:
 - (a) where the building work relates to the external design and siting of a building - unless the Planning Authority has given approval; or

- (b) where the building work is to be carried out on land that is a Designated Area - if the work is prohibited by section 12 of Australian Capital Territory (Planning and Land Management) Act 1988 (Cth).

Clause 11 will repeal section 31A of the Building Act 1972.

DIVISION 3

Division 3 consists of 5 clauses and specifies amendments to the Buildings (Design and Siting) Act 1964.

Clause 12 specifies that Division 3 of Part II of the Bill shall apply to the Buildings Design and Siting) Act 1964.

Clause 13 amends section 3 of the Buildings (Design and Siting) Act 1964 by omitting the definition of the term "external design", substituting a revised definition of that term and by inserting additional definitions.

Clause 14 repeals sections 4, 5 and 6 of the Buildings (Design and Siting) Act 1964 and substitutes new sections.

- Proposed new section 4 specifies that the Buildings (Design and Siting) Act 1964 does not apply to a building on land that is a Designated Area.
- Proposed new section 5 binds the Crown and provides that the Crown shall not be liable for prosecution for an offence.
- Proposed new section 6 applies Part VI of the Land (Planning and Environment) Act 1991 in relation to a proposal for the external design and siting of a building as if:
 - (a) a reference to the external design and siting of a building appeared in Schedule 2 of that Act with the Minister as a concurring authority and a penalty of a fine of \$20,000 specified;

- (b) a reference to the external design and siting of a building appeared in Schedule 3 of that Act with a penalty of a fine of \$20,000; and
- (c) all references to the Minister in Part VI (other than those in Divisions 4) shall be taken to be a reference to the ACT Planning Authority.

- Proposed new section 6A provides that the Territory or a Territory authority will not be required to obtain an approval to erect a sign if the sign is being erected in accordance with a law of the Territory and the ACT Planning Authority is satisfied that the erection of the sign is consistent with the Plan.

Clause 15 repeals section 8, 9, 10 and 11 of the Buildings (Design and Siting) Act 1964 and inserts proposed new section 8. Proposed new section 8 empowers the Authority to delegate, by instrument, all or any of its powers under the Buildings (Design and Siting) Act 1964 to a public servant.

Clause 16 amends section 14 of the Buildings (Design and Siting) Act 1964 by adding a new subsection (2) to provide that the Executive make regulations in relation to:

- (a) the exemption of the Territory or a Territory authority from the requirements of all or any of the provisions of Part VI of the Land (Planning and Environment) Act 1991;
- (b) the circumstances in which such an exemption would apply; and
- (c) the circumstances in which persons, other than the applicant for external design and siting approval, are not entitled to apply for review.

DIVISION 4

Division 4 consists of one clause and provides for amendment to the Cemeteries Act 1933.

Clause 17 amends section 6 of the Cemeteries Act 1933 by inserting a new subsection (4A). New subsection 6(4A) provides that the Trustees of the Canberra Public Cemeteries shall manage a public cemetery or burial ground in accordance with the management objectives for a public cemetery or private burial ground specified in

Schedule 1 to the Land (Planning and Environment) Act 1991 and any Plan of Management under that Act which applies to the public cemetery or burial ground.

DIVISION 5

Division 5 consists of 4 clauses and provides for amendment to the Dividing Fences Act 1981.

Clause 18 specifies that Division 5 of Part II shall apply to the Dividing Fences Act 1981.

Clause 19 provides for the amendment of the title of the Dividing Fences Act 1981 by adding to the title of that Act the words 'and party walls'.

Clause 20 repeals section 1 of the Dividing Fences Act 1981 and substitutes a new section 1 that provides that the Act may be cited as the Common Boundaries Act 1981.

Clause 21 amends the Dividing Fences Act 1981 by inserting into that Act proposed new sections 23; 24; 25; 26; 27 and 28.

- Proposed new section 23 provides that where there is a common boundary between a parcel of leased Territory Land and an area of unleased Territory Land the Minister may by notice in writing to the lessee of the parcel of leased land require the lessee to erect a fence on that boundary or any part of it.
- Proposed new section 24 provides that where there is a common boundary between 2 parcels of leased Territory Land the Minister may, by notice in writing to each lessee, require them jointly to erect a fence on that boundary or any part of it.
- Proposed new section 25 provides that a notice made by the Minister under new section 23 or 24 shall specify the fence to be erected and the portion of the boundary on which the fence is to be erected.
- Proposed new section 26 provides that if a fence is not erected within 1 month of the date of the notice then the Minister may cause the fence to be erected and the cost met by the lessee or lessees concerned.

- Proposed new section 27 defines the term 'party wall' for the purposes of new section 28.
- Proposed new section 28 defines the rights and obligations of lessees who have a party wall as a common boundary or part of a common boundary. The proposed new section provides that the lessee of each parcel of land may during the continuance of her or his lease:
 - : erect, maintain and use a party wall in the position shown on the building plan or design;
 - : use any party wall erected for the support of the building or buildings in accordance with the building plan or design;
 - : agree as to who erects the party wall and apportion the building costs;
 - : where a lessee has at her or his own expense erected a party wall then the lessee of the other parcel of land shall after commencing the erection of a building on the other parcel of land pay a proportion of the cost of the erection of the party wall;
 - : where agreement as to the apportionment of the cost of erecting a party wall has not been reached, then the Minister may at the request of either lessee determine the cost of erecting the party wall and the proportions of the cost to be borne by each lessee;
 - : where a period has elapsed between the date the party wall was completed by a lessee and the date of commencement of the erection of a building on the other parcel of land then a reasonable allowance shall be made for depreciation of the party wall in determining the proportion payable by the other lessee of the cost of erection of the party wall; and
 - : the amount agreed on, or determined by the Minister, as payable by one lessee to another lessee under new section 28 shall be a debt due and recoverable by the other lessee in any court of competent jurisdiction.

DIVISION 6

Division 6 consists of one clause and provides for amendment to the Real Property Act 1925.

Clause 22 repeals section 72A of the Real Property Act 1925 and substitutes new section 72A and section 72AB.

- Proposed new section 72A deals with registration of a variation to a lease.
 - : Proposed new subsection 72A(1) imposes an obligation on the Executive to lodge with the Registrar of Titles a copy of the variation where the Executive executes a variation of a lease.
 - : Proposed new subsection 72A(2) imposes an obligation on the Registrar of Titles to, upon receipt of a copy of a variation, endorse on the folio of the Register Book constituted by the lease a memorial stating that the variation has been executed.
- Proposed new section 72AB provides for, where appropriate, the registration of orders made by the Minister under Part VI of the Land (Planning and Environment) Act 1991. Proposed new section 72AB specifies that where the Registrar receives notice of the making of an order under section 255 of that Act, or a copy of an order or the revocation of an order under section 258 of that Act and the order or revocation purports to affect a Crown lease then the Registrar shall endorse the Register.

DIVISION 7

Division 7 consists of 1 clause and provides for a number of minor amendments to a number of Acts.

Clause 23 provides that the Acts specified in Schedule 1 to the Bill shall be amended as set out in that Schedule. The amendments are consequential amendments that are necessary following the introduction of the Land (Planning and Environment) Act 1991 and the following Acts are specified:

- (a) Animal Nuisance Control act 1975:

- (b) Buildings (Design and Siting) Act 1964:
- (c) Cemeteries Act 1933:
- (d) Dividing Fences Act 1981:
- (e) Electricity and Water Act 1988:
- (f) Nature Conservation Act 1980:
- (g) Public Parks Act 1928:
- (h) Real Property Act 1925: and
- (i) Unit Titles Act 1970.

PART III - REPEALS

Parts III consists of one clause and identifies a number of Act that will be repealed following the commencement of the Bill.

Clause 24 specifies that the Acts specified in Schedule 2 to the Bill are repealed.
These Acts are:

Australian National University (Leases) Act 1967:

Australian University (Leases) (Amendment) Act 1980

Canberra College of Advanced Education (Leases) Act 1977

Canberra College of Advanced Education (Leases) (Amendment) Act 1979

Church Lands Leases Act 1924

Church Lands Leases Act 1927

Church Lands Leases Act 1930

Church Lands Lease Act 1932

Church Lands Lease (Amendment) Act 1986

City Area Leases Act 1936

City Area Leases Act (No. 2) 1936

City Area Leases Act (No. 3) 1936

City Area Leases Act 1938

City Area Leases Act 1947

City Area Leases Act 1950

City Area Leases Act 1951

City Area Leases Act 1957

City Area Leases Act 1961

City Area Leases Act 1963

City Area Leases Act 1964

City Area Leases Act 1967

City Area Leases Act 1968

City Area Leases Act (No. 2) 1968

City Area Leases Act 1969

City Area Leases Act 1970

City Area Leases Act 1971

City Area Leases Act 1973

City Area Leases Act (No. 2) 1973

City Area Leases Act 1974

City Area Leases Act (No. 2) 1974

City Area Leases Act (No. 3) 1974

City Area Leases Act (No. 4) 1974

City Area Leases Act (No. 5) 1974

City Area Leases Act 1975

City Area Leases Act 1976

City Area Leases Act (No. 2) 1976

City Area Leases (Amendment) Act 1977

City Area Leases (Amendment) Act 1978

City Area Leases (Amendment) Act 1979

City Area Leases (Amendment) Act 1982

City Area Leases (Amendment) Act 1983

City Area Leases (Amendment) Act (No. 2) 1983

City Area Leases (Amendment) Act 1984

City Area Leases (Amendment) Act 1986

City Area Leases (Amendment) Act (No. 2) 1986

City Area Leases (Amendment) Act 1987

City Area Leases (Amendment) Act 1991

Interim Planning Act 1990

Interim Territory Planning Act 1988

Land Valuation Act 1936

Land Valuation Act (No. 2) 1936

Land Valuation Act 1967

Land Valuation Act 1970

Land Valuation Act (No. 2) 1970

Land Valuation (Amendment) Act 1978

Land Valuation (Amendment) Act 1982

Leases Act 1918

Leases Act 1919

Leases Act 1925

Leases Act 1926

Leases Act 1927

Leases Act 1933

Leases Act (No. 2) 1933

Leases Act 1936

Leases Act 1955

Leases Act 1958

Leases Act 1972

Leases (Amendment) Act 1982

Leases (Special Purposes) Act 1925

Leases (Special Purposes) Act 1927

Leases (Special Purposes) Act 1929

Leases (Special Purposes) Act 1930

Leases (Special Purposes) Act 1932

Leases (Special Purposes) Act 1936

Leases (Special Purposes) Act 1943

Leases (Special Purposes) Act 1970

Leases (Special Purposes) (Amendment) Act 1981

Leases (Special Purposes) (Amendment) Act 1986

PART IV - SAVINGS AND TRANSITIONALS

Part IV consists of 2 Divisions and specifies saving and transitional provisions.

DIVISION 1

Division 1 consists of 3 clauses and deals with general issues.

Clause 25 relates to leases and licences granted under an Act that is repealed by virtue of the application of clause 24.

- Subclause 25(1) provides that subject to Division 2 of Part IV of the Bill, a lease or licence granted or continued, or purported to have been granted or continued under a repealed Act, other than a repealed Act specified in subclause 25(2), and in force as at the commencements of clause 25 shall be taken to have been granted under the Land (Planning and Environment) Act 1991.
- Subclause 25(2) specifies that the following repealed Acts are exempt from the application of subclause 25(1):
 - (a) the Australian National University (Leases) Act 1967;
 - (b) the Canberra College of Advanced Education (Leases) Act 1977; and
 - (c) the Church Lands Leases Act 1924

Clause 26 provides that notwithstanding the repeal of the Acts specified in Schedule 2 to the Bill, a repealed Act shall continue to apply in relation to an application made but not determined before the particular Act was repealed and the review by a court or other tribunal of a decision in relation to such an application.

Clause 27 relates to the continuation in certain circumstances of a fee determination

- Subclause 27(1) provides that a determination in respect of a fee payable under a continuing provision as defined by subclause 27(2) continues in force in respect of that provisions.
- Subclause 27(1) defines the term 'continuing provision' to mean a provision of a repealed Act identified in Schedule 2 of the Bill which continues to apply by virtue of Division 3 of Part IV of the Bill on and after the commencement of the Bill.

DIVISION 2

Division 2 consists of 6 clauses and identifies the 'continuing provisions' in respect of the Buildings (Design and Sitings) Act 1964

Clause 28 specifies certain definitions for the propose of Division 2 of Part IV of the Bill.

Clause 29 empowers the Planning Authority to make an order under Division 3 of Part VI of the Land (Planning and Environment) Act 1991.

- Subclause 29(1) provides that for 12 months after the commencement of clause 29 the Planning Authority may make an Order under Division 3 of Part VI of the Land (Planning and Environment) Act 1991 directing a person to stop, or not to commence, work in relation to the external design or siting of a building if the building is built, or is intended to be built:
 - (a) on a place proposed to be included in an interim Heritage Places Register prepared under the Land (Planning and Environment) Act 1991; or
 - (b) on a place that may in the opinion of the Heritage Council be included in an interim Heritage Places Register.
- Subclause 29(2) provides that the Authority shall not make an order without the approval of the Heritage Council.
- Subclause 29(3) specifies that a person shall not without reasonable excuse contravene an order made under subclause 29(1). A fine of \$20,000 for a natural person or \$100,000 for a body corporate may be imposed.

Clause 30 provides that until regulations are made under the Building (Design and Siting) Act 1964

- Paragraph 30(a) of the Bill specifies that sections 250 and 274 of the Land (Planning and Environment) Act 1991 do not apply in relation to a proposal for the external design and siting of:

- : a building built, or intended to be built, on a parcel of land in respect of which a lease has been granted for residential purposes if the proposal complies with the relevant quantitative standards set out in the Plan;
 - : a building or other structure built, or intended to be built, on a parcel of land in respect of which a lease has been granted for industrial purposes or purposes which include industrial purposes if the proposal complies with the development conditions for that land;
 - : public works which comply with the relevant controls and standards which the Authority proposes to set out in the Plan;
 - : a sign, the erection of which is consistent with the Plan;
- Paragraph 30(a) of the Bill specifies that paragraph 250(1)(b) of the Land (Planning and Environment) Act 1991 does not apply in relation to a proposal for the external design and siting of a building intended for use as a special dwelling.

Clause 31 specifies that the Buildings (Design and Siting) Act 1964 does not apply in respect of :

- (a) capital works listed in the 1991-1992 Budget Paper No. 6 entitled "Capital Works 1991-1992"; or
- (b) public works for which the Territory entered into a contract before the commencement day.

Clause 32 is a transitional provision in relation to the granting of approval of a external design and siting proposal in respect of a structure that has been built. Clause 32 provides that the Planning Authority shall, by virtue of such approval procedures as are specified in the Buildings (Design and Siting) Act 1964 before the commencement of the Bill, grant approval of the external design and siting of a building structure -

- (a) if an application is lodged in writing with the Authority within 12 months of the commencement of the Bill; and

- (b) the Authority is satisfied that the external design and siting of the work complies with the external design and siting criteria set out in the Plan.

Clause 33 specifies that an order made under subclause 29(1) or a refusal to grant an approval under subclause 32(1) may be subject to review by the Administrative Appeals Tribunal.

DIVISION 3

Division 3 consists of 11 clauses that identify provisions of the Acts repealed by virtue of clause 24 that shall continue to have effect.

Clause 34 provides that notwithstanding the repeal of the Australian National University (Leases) Act 1967 that Act continues to apply in relation to a lease granted under or continued in force, by that Act immediately before the commencement of clause 34.

Clause 35 relates to the granting of lease under the Canberra College of Advanced Education (Leases) Act 1977.

- Subclause 35(1) provides that notwithstanding the repeal of the Canberra College of Advanced Education (Leases) Act 1977 that Act continues to apply to a lease granted under that Act.
- Subclause 35(2) provides that, for the purposes of subclause 35(1), section 5 of the Canberra College of Advances Education (Leases) Act 1977 is to be taken to apply as if that section had been amended by omitting the words "in perpetuity".

Clause 36 relates to a Proclamation made under the Cemeteries Act 1933.

- Subclause 36(1) provides that a Proclamation made under section 4 of the Cemeteries Act 1933 and in force as at the commencement of the Bill shall continue in force until the commencement of a provision of the Plan that reserves cemeteries and private burial grounds. Schedule 1 to the Bill provides for the repeal of section 4 of the Cemeteries Act 1933.

Subclause 36(2) provides that subsection 4(2) of the Cemeteries Act 1933 continues to apply in relation to a Proclamation continued in force by virtue of subclause 36(1) until the commencement of a provision of Plan which reserves cemeteries and burial grounds.

Clause 37 provides that notwithstanding the repeal of the Church Lands Leases Act 1924 sections 5, 6, 8 and 10 of that Act shall continue to apply in relation to a lease granted under that Act and in force immediately before the commencement of the Bill.

Clause 38 relates to leases granted under the City Area Leases Act 1936.

- Subclause 38(1) provides that a reference to the term 'improvements' in a lease granted under the City Area Leases Act 1936 shall be read as a reference to improvements other than by way of clearing, draining, grading, filling excavating or levelling made by the Territory or the Commonwealth or the cost of which the Territory or the Commonwealth has paid.
- Subclause 38(2) provides that notwithstanding the repeal of the City Area Leases Act 1936 the following sections of that Act shall continue to apply:
 - : section 8A in respect of a lease in which provision is made for the land comprised in the lease to be used for the purpose specified in subsection 8A(1) of that Act;
 - : section 10 in relation to the use of residential land for carrying on a profession, trade, occupation or calling until such time as relevant provisions of the Plan is commenced;
 - : section 18B in so far as the section relates to a variation of a continuing lease in respect of which notice under section 18A of that Act was given before the commencement of the Bill;
 - : section 22 in so far as the section relates to a lease in respect of which notice under the section was given before the commencement of the Bill;

- : section 28DA in so far as the section relates to a lease specified in subsection 28DA(1);
 - : section 28DA in so far as the section relates to a lease specified in subsection 28DA(i); and
 - : section 30A in so far as the section relates to a sub-lease specified in subsection 30A(2) in force at the commencement of the Bill.
- Subclause 38(3) defines a term for the purposes of clause 38.

Clause 39 deals with the continuation of environmental impact statements prepared or commenced before the commencement of the Bill.

- Subclause 39(1) provides that an environmental impact assessment or similar report authorised by the Minister and prepared before the commencement of the Bill shall after the commencement of the Bill be taken to be a preliminary assessment or an Assessment made in accordance with the Land (Planning and Environment) Act 1991.
- Subclause 39(2) provides that an environmental impact assessment or similar report authorised by the Minister being prepared but not completed before the commencement of the Bill shall after the commencement of the Bill, be taken to be a preliminary assessment or an Assessment being prepared in accordance with the Land (Planning and Environment) Act 1991.

Clause 40 relates to the Interim Planning Act 1990.

- Subclause 40(1) provides that any act or thing done by or on behalf of the Authority before the commencement of the Bill shall be taken to have been done by or on behalf of or in relation to the new Authority.
- Subclause 40(2) provides anything done by the old Authority in relation to the variation of the Plan in accordance with a provision of Part III of the Interim Planning Act 1990 before the commencement of the Bill shall be taken to have been done in relation to the variation of the Plan by the new Authority in accordance with the correspondence provision of Division 3 of Part II of the Land (Planning and Environment) Act 1991.

Subclause 40(3) provides that anything done by the old Authority under section 25 of the Interim Planning Act 1990 before the commencement of the Bill shall be taken to have been done by the new Authority under section 31 of the Land (Planning and Environment) Act 1991.

Subclause 40(4) provides that where before the commencement of the Bill the Executive had given a direction in relation to a draft variation of the Plan under paragraph 19(1)(b) of the Interim Planning Act 1990 (other than a draft variation resubmitted under section 20 of that Act) the direction shall after the commencement of the Bill, shall be taken to be a direction given by the Executive under paragraph 25(1)(b) of the Land (Planning and Environment) Act 1991.

- Subclause 40(5) provides that the rights, privileges, obligations and liabilities of the old Authority existing immediately before the commencement of the Bill shall be the rights, privileges, obligations and liabilities of the new Authority.
- Subclause 40(6) provides that a contract or agreement entered into or taken to have been entered into by the old Authority, and in force immediately before the commencement of the Bill, continues in force after the commencement of the Bill.
- Subclause 40(7) provides that where before the commencement of the Bill a cause of action had arisen, or was taken to have arisen, against the old Authority but proceedings had not been instituted then after the commencement of the Bill that cause of action may be instituted by the new Authority.
- Subclause 40(8) provides that where before the commencement of the Bill proceedings had been instituted by or against the old Authority in a court, commission or other body but had not been completed then those proceedings may be continued by or against the new Authority.
- Subclause 40(9) provides that where proceedings have been instituted or continued pursuant to clause 40 then each party to those proceedings has the same party rights and is subject to the same obligations as if the new

Authority were the old Authority and the proceedings had been continued by or against the old Authority.

- Subclause 40(10) provides that where before the plan provided for by Part III of the Interim Planning Act 1990 came into effect it would have been lawful to use any land in a particular way then the establishment of the plan or the making of a variation to the plan under that Act does not prevent the use of the land in that way during the term of the estate.
- Subclause 40(11) defines the terms, 'new Authority' and 'old Authority' for the purposes of clause 40. The term 'new Authority' is defined as meaning the Australian Capital Territory Planning Authority established under the Land (Planning and Environment) Act 1991. The term 'old Authority' is defined as meaning the Australian Capital Territory Planning Authority established under the Interim Planning Act 1990.

Clause 41 deals with the Leases (Special Purposes) Act 1925.

- Subclause 41(1) provides that notwithstanding the repeal of the Leases (Special Purposes) Act 1925 sections 5AC, 5AD, 5A and 5B of that Act continue to apply in relation to a lease of Territory Land, in force as at the commencement of the Bill, granted under subsection 3(2) of the Act as in force immediately before 11 May 1989.
- Subclause 41(2) provides that notwithstanding the repeal of the Leases (Special Purposes) Act 1925, subsection 5BA(6) of that Act continues to apply in relation to a lease granted under that Act and in force immediately before the commencement of the Bill.

Clause 42 deals with amendments to the Nature Conservation Act 1980.

- Subclause 42(1) provides that a declaration under section 51 or 52 of the Nature Conservation Act 1980 before the commencement of the Bill continues in force after the commencement of the Bill until the commencement of the provision of the Plan which reserves wilderness areas, national parks and nature reserves.

- Subclause 42(2) provides that where immediately before the commencement of the Bill the Conservator had prepared a plan of management under section 52B of the former Act in respect of a reserved area but had not published a notice under section 52D of that Act in respect of that plan then that plan is to be taken to be a draft Plan of Management prepared under section 196 of the Land (Planning and Environment) Act 1991 in respect of that area.

- Subclause 42(3) provides that where before the commencement of the Bill the Conservator had prepared a plan of management under section 52B of the Nature Conservation Act 1980 in respect of a reserved area and had published a notice under section 52D of that Act then after the commencement of the plan of management is to be taken to be a draft Plan of Management prepared under section 196 of the Land (Planning and Environment) Act 1991 and the Conservator is to be taken to have complied with section 199 of the Land (Planning and Environment) Act 1991 in respect of that draft Plan.

- Subclause 42(4) provides that where immediately before the commencement of the Bill the Conservator had prepared a document that if it has been prepared in respect of a reserved area would have been a plan of management under section 52B of the Nature Conservation Act 1980 then as at commencement of the Bill this document is to be taken as a draft Plan of Management prepared under section 196 of the Land (Planning and Environment) Act 1991 and the Conservator is to be taken to have complied with section 199 of that Act.

- Subclause 42(5) provides that a plan of management accepted or adopted under section 52D of the Nature Conservation Act 1980 and in effect immediately before the commencement of the Bill is to be taken to be a Plan of Management in effect under Division 5 of Part V of the Land (Planning and Environment) Act 1991.

- Subclause 42(6) defines certain terms in relation to clause 42.

Clause 43 provides that a declaration under section 4 of the Public Parks Act 1928 in force immediately before the commencement of the Bill continues in force on and after that day until a provision of the Plan which reserves urban open spaces commences.

Clause 44 provides for the continuation of the repealed provision of the **Real Property Act 1925**. Clause 44 provides that 72A of the **Real Property Act 1925** as in force before the commencement of the Bill, continues to apply in relation to a certificate of variation issued under that section before the commencement of the Bill and lodged for registration in accordance with that section within 3 months of the commencement of the Bill.