

2008

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**Development Application (Block 20 Section 23 Hume) Assessment
Facilitation Bill 2008**

EXPLANATORY STATEMENT

**Presented by
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Chief Minister**

Overview

The Development Application (Block 20 Section 23 Hume) Assessment Facilitation Bill 2008 aims to facilitate the timely assessment of a development application on Block 20 Section 23 Hume for the proposed construction of a data centre and associated gas powered co-generation facility (data centre).

A development application was originally submitted for Block 1671 in the District of Tuggeranong for the purpose of a data centre and gas fired power station on 21 ha, initially generating up to 210 MWh on three hectares of the site.

The proposal was subsequently downsized to a data centre with a 28 MW (plus 14 MW redundant, backup capacity) natural gas co-generation primary power supply on 17 ha (block 1676 Tuggeranong). The natural gas co-generation facility would be the primary power supply for the data centre campus. The facility would consist of three 14 MW gas turbine generators. Only two would be in operation at any one time, with one stand-by, giving an operating electrical output of the co-generation facility of 28 MW.

The community was consulted as part of the development assessment process for the Tuggeranong District site, including in relation to an associated Preliminary Assessment and an Environmental Impact Statement (EIS) for which the consultation period concludes on 12 December 2008.

Some members of the Legislative Assembly have expressed concern about the development going ahead on the current site.

An alternative site, Block 20 Section 23 Hume of 12.66 ha (new site) has been identified, is available, has previously been offered for sale for development as an industrial estate and appears to be suitable for the proposed development.

If the proposal is to be relocated to the new site regardless of the status of the statutory planning approval process for the Tuggeranong District development application, the planning process would ordinarily begin again. In the circumstances, this is likely to result in unreasonable delays and duplication of effort. It would also send the wrong message to the business community that the ACT does not support economic growth, and may inadvertently reduce the confidence of the business community to invest in the Territory.

A new development application specific to the new site must be prepared, submitted and assessed under the *Planning and Development Act 2007* (P&D Act). In this context, there are significant planning and environmental studies already undertaken both in respect of the proposal and the new site, including consultation on those matters. As a result of this, many matters have already been addressed, are generally transferrable to the new site or are capable of being addressed by supplementary information that must be provided as part of a development application for the new site. The Development Application (Block 20 Section 23 Hume) Assessment Facilitation Bill 2008, recognises these circumstances, by treating a new application as an application to which the merit track applies.

Clauses 1, 2, 3 and 4: Formal Clauses

Clauses 1 - 4 are formal clauses which:

- State the name of the Act being created;
- Provide for commencement of the Act;
- Provide for a dictionary within the Act to define the meaning of terms used within it; and
- Explain the role of notes in the Act.

Clause 5: Application of Act

Clause 5 sets out the matter to which the Act applies. That is a development application (a new development application) for approval of development on Block 20 Section 23 Hume (Hume block development) or development related to the Hume block development. The clause also provides for the application to be made by 1 February 2009 or any later date prescribed by regulation, and for development related to the Hume block development to be prescribed by regulation.

Clause 6: Assessment of a new development application

Clause 6 provides for an application made under this Act to be treated for all purposes, including assessment, as an application under the merit track under the P&D Act.

Clause 7: Public consultation period

Clause 7 provides for a period of 15 working days for public consultation (public notification of development applications and representations) for a new development application.

Clause 8: Time for decision on new development application

Clause 8 prescribes the time period under the P&D Act, section 162 (Deciding development applications) for a new development application to be 30 days after the application is made. This timeframe recognises that significant planning and environmental studies have already

been undertaken both in respect of the proposal and the new site, including consultation on those matters.

Clause 9: Use of land

Clause 9 clarifies that a data centre and gas powered co-generation facility is a communication facility, in recognition that the proposal is new, evolutionary technology.

Clause 10: Inconsistency with P&D Act

Clause 10 provides for the application of this Act despite any inconsistency with the P&D Act.

Clause 11: Regulation-making power

Clause 11 provides for the Executive to make regulations for the purposes of this Act.

Clause 12: Expiry-Act

Clause 12 determines the period for which the Act will remain in force, by providing for the Act to expire 1 year after the day it commences.

Clause 13: Administrative Decision (Judicial Review) Act 1989, schedule 1, new item 13A

Clause 13 amends schedule 1 of the *Administrative Decisions (Judicial Review) Act 1989* (ADJR Act), to exclude a decision made under the P&D Act in relation to a development application to which this Act applies, from review under the ADJR Act.