

1993

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

LAND (PLANNING AND ENVIRONMENT) (CONSEQUENTIAL PROVISIONS)
(AMENDMENT) BILL (NO.2) 1993

EXPLANATORY MEMORANDUM

circulated by authority of

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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 (No. 2) 1993* (the Bill) amends the Act so that an appeal against a decision to make an order in respect of a building on a place that may be of possible heritage significance is appellable to the Land and Planning Appeals Board.

Section 29 provides a mechanism that affords protection to a place of possible heritage significance. As the Heritage Council has not yet finalised the Interim Heritage Places Register the application of the provision has been extended to 18 months. An amendment to section 33 is therefore necessary so that a review of the decision to make an order is appellable in accordance with the arrangements introduced by the *Land (Planning and Environment) (Amendment) Bill (No. 4) 1993*.

Initially, appeals against the making of such an order were made to the Administrative Appeals Tribunal. The *Land (Planning and Environment) (Amendment) Bill (No. 4) 1993* replaces the Tribunal with the Land and Planning Appeals Board as the appeals body, generally, for matters under the Land Act.

Section 33 also provided for a review of a decision made under section 32. Section 32 provides for the design and siting approval of unapproved work. This section has no force as it was to last for only twelve months from 2 April 1992.

FINANCIAL IMPACT

The cost of running the Appeals Board has been provided for as part of the Budget process.

NOTES ON CLAUSES

- Clause 1 : Short title**
Clause 2 : Commencement
Clause 3 : Principal Act

Clauses 1, 2 and 3 are formal mechanical clauses that deal with the identification, application and commencement of the Act.

- Clause 4 : Interpretation**

Clause 4 amends section 28 of the Principal Act by defining the term "Appeals Board", being the body established by the Land Act. As a consequence the term "Tribunal" is omitted.

- Clause 5 : Review of decisions**

Clause 5 will amend section 33 of the Principal Act. Section 33 sets out that a decision made under subsection 29(1) is appealable to the Administrative Appeals Tribunal and that certain actions have to be taken when notifying a decision made under that subsection. Section 29 provides that an order can be made 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 the Interim Heritage Places Register.

Clause 5 amends section 33 by replacing subsections (1), (2) and (3). The Land

and Planning Appeals Board replace the Administrative Appeals Tribunal as the body to which appeals are made to review the decision to make an order under subsection 29(1).

The new subsections (2) and (3) will provide that where a decision is made under subsection 29(1) a notice is sent to various persons. the notice shall include a statement of reasons for making the order and advice that an appeal can be made to the Appeals Board for a review of the decision.