

1997

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Ms Horodny)

**Land (Planning and Environment)
(Amendment) Bill 1997**

**A BILL
FOR**

An Act to amend the *Land (Planning and Environment) Act 1991*.

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART 1 - PRELIMINARY

Short Title

1. This Act may be cited as the *Land (Planning and Environment) (Amendment) Act 1997*

Commencement

- 2 This Act commences on the day on which it is notified in the *Gazette*.

Principal Act

- 3 In this Act, "Principal Act" means the *Land (Planning and Environment) Act 1991*.

PART II - AMENDMENT OF THE PRINCIPAL ACT

Review—objectors, third parties

- 4 Section 276 of the Principal Act is amended by omitting from paragraph (1)(b) the word "rights" and inserting instead the word "interests".

15 New Sections

5. The Principal Act is amended by inserting after section 284 the following sections -

"Interpretation

- 284A. For the purposes of sections 284B and 284C—

- 20 a) a reference to a breach of this Act is a reference to—
(i) a contravention of or failure to comply with this Act, and
(ii) a threatened or an apprehended contravention of or failure to
comply with this Act, and
- 25 (b) a reference to this Act includes a reference to—
(i) an approval granted under this Act, and
(ii) a condition subject to which an approval referred to in sub-
paragraph (i) was granted
(iii) subject to section 175, a lease in force under this Act

Restraint, etc, of breaches of this Act

30 284B. (1) Any person may bring proceedings in the Supreme Court for an
order to remedy or restrain a breach of this Act, whether or not any right of
that person has been or may be infringed by or as a consequence of that
breach

35 (2) Proceedings under this section may be brought by a person on the person's
own behalf or on behalf of the person and other persons (with their consent), or
a body corporate or unincorporated (with the consent of its committee or other
controlling or governing body), having like or common interests in those
proceedings

40 (3) Any person on whose behalf proceedings are brought is entitled to
contribute to or provide for the payment of the legal costs and expenses
incurred by the person bringing the proceedings

(4) This section is intended to operate in addition to and not in derogation of
any other right a person may have

Order of the Court

45 284C (1) Where the Supreme Court is satisfied that a breach of this Act has
been committed or that a breach of this Act will, unless restrained by order of
the Court, be committed, it may make such order as it thinks fit to remedy or
restrain the breach

50 (2) Without limiting the powers of the Court under subsection (1), an order
made under that subsection may—

(a) where the breach of this Act comprises a use of any building or
land—restrain that use,

(b) where the breach of this Act comprises the erection of a building—
require the demolition or removal of that building, or

55 (c) where the breach of this Act has the effect of altering the condition
or state of any building or land—require the reinstatement, so far as is
practicable of that building or land to the condition or state the building
or land was in immediately before the breach was committed

60 (3) Where a breach of this Act would not have been committed but for the failure to obtain an approval to undertake development under Part VI of this Act, the Court, upon application being made by the defendant, may—

(a) adjourn the proceedings to enable an application for approval to be made under Part VI to obtain that approval, and

65 (b) in its discretion, by interlocutory order, restrain the continuance of the commission of the breach while the proceedings are adjourned.

(4) The functions of the Supreme Court under sections 284B and 284C are in addition to and not in derogation from any other functions of the Court ”