

1999

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

**LAND (PLANNING AND ENVIRONMENT) (AMENDMENT)
BILL (NO 3) 1999**

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be moved on behalf of the Government

Land (Planning and Environment) (Amendment) Bill (No 3) 1999 Amendments

Outline

This is an Assembly amendment to the *Land (Planning and Environment) (Amendment) Bill (No.3)* which amends the *Land (Planning and Environment) Act 1991* (the Land Act). This amendment makes the necessary amendments to the clauses dealing with the definition and application of the “discharge amount” where those provisions apply to certain leases within Pialligo.

These amendments will give full effect to the Government’s response to recommendation 26 of the Rural Taskforce Report “*Toward a Sustainable Future*”. That recommendation dealt with the restriction on transfer of rural leases in certain circumstances. The Government response recognised that Pialligo leases with allowed commercial uses would need to have their discharge formula calculated on a different basis to other rural leases.

CLAUSE NOTES

Amendment 1 - Proposed new section 186B, definition of *discharge amount*.

Clause 8 – page 3 line 14 – inserts new definitions of *discharge amount* and *earlier index number*.

The new definition of discharge amount has two parts. Where the discharge amount relates to a special Pialligo lease, the discharge amount is determined in accordance with the formula provided in the new section 186EA. In all other cases the discharge amount is determined using the formula in section 186E.

The definition of earlier index number is the last index number issued before the lease was granted under section 161 or 171A. This Assembly amendment omits the definition from the proposed section 186E and moves the definition to this section as the definition will be used in both the proposed new section 186E and 186EA.

Amendment 2 – Proposed new section 186B, proposed new definitions of *index number* and *later index number*.

Two additional definitions are inserted into the proposed section 186B. The definition of *index number* refers to the definition contained in the proposed section 186EB. The definition of *later index number* has been omitted from the proposed section 186E, and has been modified to take account of the special Pialligo leases. The definition specifies that for special Pialligo leases the *later index number* means the last index number issued before the discharge amount under the proposed section 186EA. For any other lease the *later index number* means the last index number worked out before the *last amount* (as defined in the proposed section 186E) is worked out.

Amendment 3 - Proposed new section 186B, proposed new definition of *special Pialligo lease*.

Clause 8 – page 3 line 22 – inserts a new definition of special Pialligo lease.

The new definition identifies the Pialligo leases using block and section identifiers in the district of Majura. The leases specified will be subject to the discharge amount determined in accordance with the formula specified in the new section 186EA.

Amendment 5 – Proposed new subsection 186E (2)

Clause 8 – page 5, line 10 – omits the subsection, which has been relocated to the proposed section 186EB as the definition is used in the proposed new sections 186E and 186EA.

Amendment 6 – Proposed new subsection 186E(3)

Clause 8 – page 5 line 22 – replaces the existing subsection (3) with a new subsection (3). Minor changes have been made to the definitions contained in this clause to align wording to the definitions contained in the proposed new section 186EA. The definitions for *earlier index number*, *index number*, and *later index number* are now in the proposed section 186B.

Amendment 7 – Proposed new section 186EA

Clause 8 – page 6 line 21 – inserts a new section 186EA to provide two formulae, and definitions to deal with the discharge amount for special Pialligo leases.

The proposed subsection (1) applies to a dealing with a special Pialligo lease less than one year after the lease has been granted. In this circumstance, the discharge amount is an amount equal to the *amount paid* for the lease plus the *owed amount*.

amount paid - if the lease is a nominal rent lease, then the *amount paid* is the amount that was paid for the lease when it was granted under section 161 or 171A. If the lease has a 30 year payment arrangement for the amount determined for the lease when the lease was granted under section 161 or 171A, then the *amount paid* is any amount paid at the time the lease was granted, plus any amount that is to be paid under the lease. In all cases, the *amount paid* does not include any amount that is attributed to lessee owned improvements.

Owed amount has the same meaning as the definition in the proposed new section 186E Discharge amount, where it relates to a *long lease*.

The second formula applies to dealings with a special Pialligo lease during the remaining years of the holding period, as defined in the proposed new section 186B. The discharge amount is to be paid in accordance with the formula:

amount paid – (cpi adjusted amount x years since grant) + owed amount

amount paid and *owed amount* have the same meaning as the definitions used in the first discharge amount formula for special Pialligo leases.

later index number and *earlier index number* are defined in the proposed new section 186B.

years since grant means the number of whole years since the grant of the lease which is subject to the holding period.

The effect of the formula is that the discharge amount to be paid reduces by 10 per cent every year.

Section 186EB Index numbers

The proposed new section 186EB defines *index number* and stipulates matters to be considered in determining the *index number*. These provisions were in the proposed new subsections 186E(2) and (3), which this Assembly amendment omits. The definition of *index number* is also required in the proposed new section 186EA.

Amendment 8 – New clause 11A

Page 7 – line 9 – This clause amends section 282A to insert a new subsection (4A), a new paragraph (5)(a) and a new subsection (6). The new section (4A) relates to the proposed section 186C that deals with Land Management Agreements. Subsection 186C(3) specifies that an Agreement may contain a provision that enables the Minister to vary an Agreement other than by agreement between the parties. The proposed new subsection specifies that where a decision is made to vary an Agreement without the agreement of the parties, the Minister must give notice of the decision to the other party.

The new paragraph (5)(a) replaces the existing paragraph (5)(a) and allows an application to be made to the Administrative Appeals Tribunal for review of a decision referred to in subsections (1), (2), (3), (4) and (4A).

The new paragraph (6) replaces the existing paragraph (6) to maintain the existing provisions, and include the new subsection (4A). The paragraph requires a notice of decision to be in accordance with the requirements of the Code of Practice under subsection 25B(1) of the *Administrative Appeals Tribunal Act 1989*.