

1997

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY

LAND (PLANNING AND ENVIRONMENT)
(AMENDMENT) BILL 1997

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be moved on behalf of the Government

Circulated by authority of the Minister for the Environment,
Land and Planning
Mr Gary Humphries MLA

LAND (PLANNING AND ENVIRONMENT) (AMENDMENT) BILL 1997

Outline

The Land (Planning and Environment) (Amendment) Bill 1997 (the Bill) will amend the *Land (Planning and Environment) Act 1991 (the Act)*.

The Government amendment to the Bill will insert a clause to effect two amendments to provisions of section 222 of the Act. Section 222 defines certain terms for the purposes of Part VI of the Act. Part VI specifies, in part, procedures in relation to an application for approval to undertake development.

The Government amendment will correct references in the definition of the terms “development” and “relevant authority”.

Section 237 of the Act prescribes the process for making an objection to the approval of an application and places an obligation on the Minister to provide a copy of each objection to the applicant. The Government amendment to the Bill will insert a new subsection to clarify the definition of “person” for the purposes of section 237.

Section 276 of the Act prescribes the circumstances in which a person may apply to the Administrative Appeals Tribunal (AAT) for the review of a decision. The Government amendments will omit clause 4 of the Bill and substitute a new clause. The clause will amend the circumstances in which a person may have standing under paragraph 276(1)(b) to apply for the review of a decision. By removing the reference to “rights” and inserting “interests” the test for standing will be less onerous allowing the broader community standing for appeals. The clause will also clarify the definition of “person” for the purposes of section 276 and the circumstances in which a organisation or association of persons may apply for the review of a decision.

Financial Implications

There are no financial implications.

Detail of Amendment

The Government amendment will insert clauses 3A and 3B into the Bill and provides a substitute for clause 4.

Paragraph (a) of clause 3A will correct a reference in the definition of the term “development” by omitting the reference “175(3)(b)” and substituting the reference “175(3)(a)”.

Paragraph (b) of clause 3A will amend the definition of the term “relevant authority”. Under subsection 229A(3) the Minister is under an obligation to refer an application for approval to undertake development that falls within a class of applications prescribed under subsection 229A(1) to the Commissioner for Land and Planning. In addition, the Minister has a discretion under subsection 229A(4) to refer an application for approval to undertake development to the Commissioner for Land and Planning.

The amendment specified in paragraph 3A(b) of the Government amendments will amend paragraph (a) of the definition of the term “relevant authority” to specify the two references under which the Minister could refer an application.

Clause 3B of the Government amendments will clarify the definition of “person” for the purposes of section 237 of the Act to include an unincorporated association.

The Government amendments omit clause 4 of the Bill and substitute a new clause. Paragraph 276(1)(b) of the Act will be amended by omitting “rights” and substituting “interests”. The definition of “person” for the purposes of section 276 of the Act is clarified to include an unincorporated association. A subsection is inserted to clarify that for an organisation or association of persons to have standing under subsection 276(1)(b), the decision must be related to a matter included in the objects or purposes of that organisation or association.