

AUSTRALIAN CAPITAL TERRITORY

BUILDING ORDINANCE 1964

EXPLANATORY MEMORANDUM.

No. 19 of 1964

The Building Ordinance 1964 is to be promulgated together with amendments of the Canberra Building Regulations as an interim measure to secure more adequate controls over building operations in the Territory until the drafting of more comprehensive legislation is completed.

The complete Building legislation, now in process of preparation, will provide for the repeal of the Canberra Building Regulations and the substitution of a system whereby the Proper Authority is to publish a Building Manual, which will set out details of minimum standards in relation to building work which are acceptable to him. Applications for approval to conduct building work will, under the new system, be approved if the plans and specifications for the work conform to the standards in the Manual or to standards at least equally acceptable.

In the interim, the Building Ordinance 1964 and the amendments to the Canberra Building Regulations will impose more adequate controls than the existing Canberra Building Regulations achieve. These Regulations currently provide for matters such as licensing of builders, issue of permits for conduct of building work, fees for licences, permits etc., and standards to be observed in the construction of buildings. Briefly, the amendments to the Regulations will provide for –

- (a) the erection of certain structures and the making of certain alterations for which the Proper Authority considers that no builder's licence is required, without such a licence;
- (b) increases in fees;
- (c) the issue of a certificate of occupancy (in place of a certificate of completion) when, in the opinion of the Proper Authority, the building is fit for occupational use.

The Ordinance will make provisions for a wider definition of buildings and structures to include fences, masts, antennae, advertising devices and other structures on or attached to land. In order to achieve the more effective enforcement of the requirements in the Regulations, the Ordinance will provide for:–

- (a) the prohibition of further work on a building by an inspector or the Proper Authority where the building is not being constructed in

accordance with plans and specifications approved or where a permit has not been obtained by the person carrying out the work;

- (b) the Proper Authority to have power to order that any building constructed without a permit be demolished or that remedial work be carried out in order that the building should conform to desirable standards;
- (c) the Proper Authority to have power to order demolition of a building or part of a building where that building or part is not constructed according to approved plans and specifications or to order that the holder of the building permit shall carry out such remedial work as is necessary to ensure that such building conforms to the plans and specifications.

The Ordinance will establish the Canberra Building Review Committee which is to be constituted by a Chairman and representatives of –

- (a) the Department of the Interior;
- (b) the Royal Australian Institute of Architects;
- (c) the Institution of Engineers of Australia; and
- (d) the Australian Institute of Builders.

The members are to be appointed by the Minister. In the case of the Organisations named in (b), (c) and (d) above the appointee is to be one of two persons nominated by the Organisation concerned. The members are to hold office for a period not exceeding three years provided that a member may be removed from office if he becomes bankrupt, resigns, becomes incapable of performing his duties or ceases to be a member of an organisation which he represents or an officer of the Department of the Interior as the case may be. Members are to be paid such allowances and fees as the Minister determines.

The Committee is to have power to hear and determine objections to –

- (a) orders to demolish or carry out remedial work made under the provision of the Ordinance relating to erection of buildings otherwise than in accordance with approved plans and specifications or the Canberra Building Regulations or made under the provisions of the Ordinance relating to erection of buildings without a permit; and
- (b) the cancellation or suspension of a builder's licence.

The Committee is to have power either to dismiss an objection or to revoke the order in respect of which the objection is made. Where the objection relates to the giving of notice to demolish or carry out remedial work and the notice is revoked by the Committee the Committee may, in its finding, make such directions as it thinks fit to be complied with by the person who made the objection.

Where a building permit has not been applied for the Committee is not to make an order upholding an objection to a "stop" notice unless the approval of the

National Capital Development Commission with respect to the external design and siting of the building has first been obtained. Where an objection to a notice requiring demolition of a building is rejected by the Committee, the person who lodged the objection is to have a right of appeal to the Supreme Court, which is vested with jurisdiction to uphold or reverse the Committee's finding. The Court may also give directions which are to be complied with by the appellant.

The following offences are provided for under the Ordinance:—

- (a) erection of a building without a permit;
- (b) the erection of a building by a person not being the holder of a licence, subject to the Proper Authority's powers to exempt the erection of certain structures from the provisions requiring erection of buildings and structures by licensed builders;
- (c) failure to comply with stop notices and orders made under the Ordinance;
- (d) failure to carry out demolition or remedial work within the time specified in the notice requiring same.

Where a person fails to comply with a notice to demolish or carry out any remedial work or fails to comply with directions in an order of the Committee or the Supreme Court, the Minister is to be empowered to authorise a specified person to do the work. Any expenses incurred by the Commonwealth by reason of the execution of such work are to be a debt due to the Commonwealth by the person named in the notice or order.