

2003

LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY

PLANNING AND LAND REGULATIONS 2003  
**Subordinate Law No SL2003-16**

EXPLANATORY STATEMENT

Circulated by authority of the  
Minister for Planning  
Mr Simon Corbell MLA

## PLANNING AND LAND REGULATIONS 2003

### Outline

The *Planning and Land Act 2002* provides for planning and the development of land, and for other purposes. It provides for the establishment of:

- the Planning and Land Authority;
- the Planning and Land Council;
- the office of Chief Planning Executive;
- the Land Development Agency;
- the Land Agency Board; and
- the office of Chief Executive Officer of the Land Development Agency.

Section 11(1) of the Act provides that the Planning and Land Authority must ask for, and consider, the advice of the Planning and Land Council:

- a) before exercising a function prescribed under regulations; or
  - b) before exercising a function in circumstances prescribed under regulations.
- These regulations prescribe circumstances, for paragraph 11(1)(b), in which the Authority must refer matters to the Council.

Section 45(1) of the Act requires the Land Development Agency to prepare a business plan for each financial year. Paragraph 45(2)(d)(ii) requires the business plan to contain any information or material that is prescribed under regulations. These regulations prescribe a range of information to be included in business plans.

Section 46(1) of the Act provides that the regulations may prescribe how, and when, a business plan is developed, varied or accepted by the Minister. These regulations prescribe requirements for referral of a draft business plan to the Minister, for the Minister's response to that draft, and for the variation of a business plan.

### Financial Implications

Nil.

## CLAUSE NOTES

**Clauses 1 and 2 – Name of regulations and commencement** – are machinery provisions that specify the name of the regulations and provide for the commencement of their provisions.

**Clause 3 – Notes** – a note is explanatory and not part of the regulations.

**Clause 4 – When Council’s advice must be asked – Act, s11(1)(b)** – provides, at subclause (1), that the planning and land authority must refer to the council any matter, involving the exercise of its functions, which it considers involves significant policy, planning or community issues. Subclause (2) lists matters that are taken to always involve such issues. They are:

- a) Preparing draft variations to the territory plan, excluding the following:
  - draft variations that relate only to defined land;
  - draft variations that do not affect adversely anybody’s rights; and
  - draft variations that are only to correct a formal error in the plan.
- b) Preparing or reviewing a section master plan.
- c) Preparing or reviewing the ‘Land Release Program’.
- d) Advising on the broad spatial planning framework for the ACT.
- e) Dealing with an application, or the grant of a lease, if the Minister has directed that an environmental impact assessment be made, or a panel of inquiry established under the *Land (Planning and Environment) Act 1991* or another Act in relation to the application or the grant.
- f) Deciding a development application that relates to:
  - residential buildings intended to be higher than 3 storeys and more than 50 units; or
  - buildings intended to have a total floor space of more than 7000 square metres; or
  - buildings or structures intended to be higher than 25 metres.
- g) Deciding applications to change concessional leases into leases that are not concessional – sometimes referred to as ‘paying out’ the concessional status of a lease.

Subclause (3) states that the authority is not required to seek the advice of the council if:

- a) the council has already given the authority advice about the matter, and the matter has not changed substantially; or

- b) the council has already given the authority advice about another matter that is substantially the same as the current significant matter; or
- c) the authority is satisfied that exercising its function in relation to the matter is in accordance with a policy about which the council has already advised the authority.

Subclause (4) defines the following terms for these regulations:

- **application**
- **concessional leases**
- **defined land**
- **draft plan variation**
- **section master plan**

**Clause 5 - Contents of land agency business plans – Act, s45(2)(d)(ii)** – sets out the information to be provided in a business plan in relation to the financial year:

- a) A statement of expected financial performance for the current year and the following 3 financial years;
- b) A statement of the expected financial position for the current year and the following 3 financial years;
- c) An explanation of any significant variation from information previously given by the land development agency in a business plan;
- d) A statement of the main challenges and opportunities that the land agency expects to face in the current year and the following 3 financial years.

Subclause (2) defines **relevant information** and, consequently, **statement of intent** for this provision.

**Clause 6 - Land agency draft business plan to Minister** – requires the land agency to give the Minister a draft business plan within 1 month of the beginning of the financial year to which it relates. The Minister may fix another period, but must, under subclause (3), tell the land agency about that period, and must include reasons why that period was fixed.

**Clause 7 - Minister’s response to draft business plan** – as soon as practicable after receiving a draft business plan from the land agency, the Minister must give the land agency comments about the draft or advise the land agency that the minister has accepted it.

If the Minister comments on a draft business plan, subclause (2) requires the land agency to:

- a) consider the comments;
- b) consult with the Minister on any comments that are not agreed; and

- c) revise the draft so that, as far as practicable, it gives effect to the comments and anything agreed between the Minister and the land agency, and then give to the Minister a copy of the revised business plan.

Subclause (3) defines the term **draft business plan** for this regulation.

**Clause 8 - Variation of business plan** – provides that the land agency may apply to the Minister to vary its business plan. Subclause (2) requires the Minister to comment, as soon as practicable, on the application or advise the land agency that the variation is accepted.

If the Minister comments on an application, subclause (2) requires the land agency to:

- a) consider the comments;
- b) consult with the Minister on any comments that are not agreed; and
- c) revise the application so that, as far as practicable, it gives effect to the comments and anything agreed between the Minister and the land agency, and then give to the Minister a copy of the revised application.

Subclause (4) states that **application** includes an application as revised.