

AUSTRALIAN CAPITAL TERRITORY

LAND (PLANNING AND ENVIRONMENT) ACT 1991

LAND (PLANNING AND ENVIRONMENT) SECTION 167 LEASES
DETERMINATION 2003 (No 5)

DISALLOWABLE INSTRUMENT DI2003-232

EXPLANATORY STATEMENT

This disallowable instrument is being redetermined as a result of the *Planning and Land (Consequential Amendments) Act 2002* which transfers certain powers from the Minister/Executive to the Planning and Land Authority.

The *Land (Planning and Environment) Act 1991* (ACT) (the Act) establishes a regime which provides for planning, heritage, environmental and leasing matters in respect of Territory Land. Subsection 167(1) of the Act provides that certain leases, or classes of lease, may be specified to be subject to the provisions of that section.

Subsection 167(1) also provides that a lease that has been declared to be subject to those provisions may also be subject to criteria for determining whether a person is eligible to hold the land comprised in that lease.

Under subsection 167(5), the consent of the Planning and Land Authority is required before the lessee, or any other person holding an interest in a lease subject to section 167, may assign, transfer, sublet or part with possession of that lease. The Planning and Land Authority may not consent to such a dealing unless it is satisfied that the assignee, transferee, sublessee or other person to whom possession should be given, is a person who meets the criteria set out in an instrument under subsection subsection 167(1).

The Disallowable Instrument made under subsection 167(1) of the Act declares the lease over Block 1 Section 1 Division of Bruce in the Australian Capital Territory (the land) to be a lease to which section 167 shall apply, and specifies the criteria for determining whether a person is eligible to hold the land comprised in the lease.

The Disallowable Instrument provides that:

1. A Crown lease of the land may only be granted to Calvary Hospital ACT Incorporated (the hospital);
2. To hold a sublease or underlease of the land, the applicant must be the hospital or a health facility provider. A “health facility provider” does not include a veterinary surgeon; and
3. The proposed lessee, sublessee or under lessee must satisfy the Planning and Land Authority that the lease will be complied with, and pay the fees and charges applicable to the lease.