

# W. H. JOHNSTON DAVIDSON & CO.

BARRISTERS & SOLICITORS  
Donald C. Davidson BA M.BA LL.B.  
Principal Solicitor  
Eva Davidson BA (Hons) MA M.BA  
Manager, Legal Administration

Your Ref:  
Our Ref:

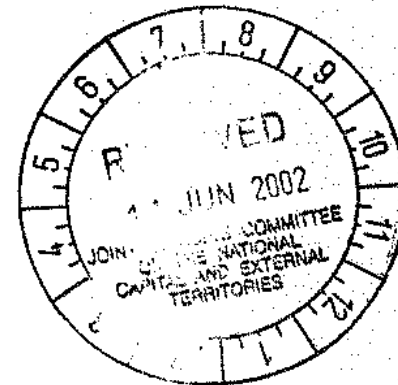
14 June 2002

The Chairman  
Parliament of Australia  
Joint Standing Committee On The  
National Capital and External Territories  
Parliament House  
CANBERRA ACT 2601

GPO Box 1862  
Canberra ACT 2601  
State House  
21 State Circle  
Forrest ACT 2603  
Tel: (02) 6295 1771  
Fax: (02) 6239 7780

SUBMISSION

5



## Re: INQUIRY INTO DRAFT AMENDMENT 39 (April 2002) OF THE NATIONAL CAPITAL PLAN

I refer to the Committee's letter of 22 May 2002 regarding the above mentioned matter.

The Committee has requested what impact, if any, the Draft Amendment will have on me.

I make the following submission regarding my legal practice which has been conducted from my home since 1 January 1991.

### SUMMARY OF MAIN POINTS

1. Amendment "A" of the Draft Amendment recognizes "home occupations" as a permitted activity on residential land in the Designated Area (Deakin/Forrest Residential Area between State Circle and National Circuit).
2. Revised Appendix N is silent on the matter of "Home Occupation".

### RECOMMENDATIONS

For clarity and consistency Appendices M and N need redrafting.

### BACKGROUND

1. Until 1993 approval was granted by the ACT Government under section 10 of the City Area Leases Act 1936 for me to conduct my legal practice from home.
2. Upon the repeal of the City Area Leases Act and the new Territory Plan coming into effect on 18 October 1993 new arrangements applied in regard to approving home businesses from private residences. As a consequence of these new arrangements many home occupations no longer needed approval if the individual met the "Home Occupation" criteria.
3. As my legal practice met the criteria in every respect I was not required to apply for approval to continue my professional activities; a savings in fees and charges at that time of \$235.00 for a five year term.

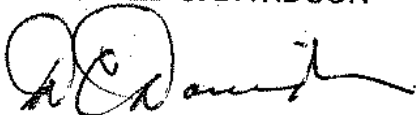


## PRESENT SITUATION

4. I have been able to continue to meet the requirements of "Home Occupation" to the present time thus saving \$552.00 in fees and charges for a five year term in addition to the time and expense of preparing detailed dimensional floor and site plans and a Consultation Report giving details of discussions about my application with all neighbours and adjacent property owners. (Refer to Annexure "A" for present "Home Occupation" requirements and Annexure "B" for Home Business Development Application Requirements & Checklist (form 4) and Development Application (form 5).
5. As stated in Annexure "A" if the individual does not meet the "Home Occupation" criteria, the individual is required to apply to Planning and Land Management of the ACT Urban Services Department to have the business activities approved as a "Home Business".
6. Provided the requirements for "Home Business" can be met the ACT Government will grant approval under section 230 of the Land (Planning and Environment) Act 1991.
7. It would appear that if the individual's "Home Business" application relates to residential land classed as Designated Land by the National Capital Authority, the ACT Government will only forward the application to the Authority for works approval if the application includes external design and siting matters (See Annexure "A", Question: Does your application relate to land classed as Designated Land").

I submit redrafted Appendices M and N for the Committee's consideration.

Yours faithfully  
DONALD C. DAVIDSON



## APPENDIX M

### RESIDENTIAL LAND USE

Clause 2 to become Clause 1 as Clause 1 is to be deleted

- "1. The National Capital Authority requires that an application be made to the ACT Government under Part VI, Division 2 of the Land (Planning and Environment) Act 1991 for a bona fide resident to conduct a business from home. An application is not required if the resident meets the ACT Government's criteria for "Home Occupation"."

## APPENDIX N

### THE CONDUCT OF BUSINESS ON RESIDENTIAL LAND

#### Preamble

The National Capital Authority's planning policies are intended to provide, *inter alia*, a high level of amenity in residential areas and to prevent the erosion of this amenity through the introduction of unsuitable commercial uses.

#### Policy

The National Capital Authority's policy, in planning terms, endorses the ACT Government's present criteria for "Home Occupation" and "Home Business" to conduct a business on land leased for residential purposes.

The ACT Land (Planning and Environment) Act 1991 enables approval to be given to a resident to conduct a "Home Business" under the provisions of Part VI, Division 2 of the Act. No such approval is required if the resident meets the "Home Occupation" criteria.

Where an application for "Home Business" is submitted to the ACT Government for approval of design and siting, the application will require the National Capital Authority's approval.

how complicated your DA is. The more complex your DA, the more time is likely to be required for its processing to be completed.

#### How will I know the results of my DA?

You will be advised in writing of the decision on your DA. If your DA is refused or approved subject to conditions, the notice will inform you of your right to lodge an appeal with the ACT Administrative Appeals Tribunal (AAT).

Comments and objections received will be considered before a final decision is made on a DA. These may result in some conditions being attached to the approval.

All people and organisations who commented will also be advised in writing of the decision. If the DA is approved, in certain circumstances people who do not agree with that decision may lodge an appeal with the AAT. A separate brochure on Appeal Rights is available from the Customer Service Centre.

#### Can I amend my application once it is lodged?

In certain circumstances it is possible to make minor changes. However, if your DA has already been publicly notified, it may have to be notified again. We recommend that you contact the Customer Service Centre to discuss this.

#### Does your application relate to land classed as Designated Land?

If it does, and it includes external design and siting, the National Capital Authority (NCA) will need to give works approval to your DA. Your DA, however, must still be lodged at the Customer Service Centre.

#### WHERE TO GET HELP . . .

For additional assistance contact our staff at the:

PALM Customer Service Centre  
Ground Floor  
Dame Pattie Menzies House  
16 Challis Street  
Dickson

Telephone: (02) 6207 1923 or 6207 1926  
TTY Phone: (02) 6207 2622  
Facsimile: (02) 6207 1925

PALM Homepage: <http://www.palm.act.gov.au>  
E-mail: [palm.customer.services@act.gov.au](mailto:palm.customer.services@act.gov.au)

Office hours are from 8.30 am to 4.30 pm weekdays.

#### If I have a complaint what can I do?

If you have a complaint about the service that you have received, or you would like to make a suggestion on how we can improve our services, please call the Customer Services Hotline 6207 1916 or write to the:

Manager  
Customer Service Centre  
Planning and Land Management  
GPO Box 1908  
CANNIBERRA ACT 2601

ENGLISH  
ARABIC  
CHINESE  
CROATIAN  
GREEK  
ITALIAN  
PERSIAN  
PORTUGUESE  
SERBIAN  
SPANISH  
TURKISH  
VIETNAMESE

If you need interpreting help, telephone:  
التحدث لمساعدة في الترجمة العربية - ارجع برقم الهاتف:  
如果你需要传译员的帮助, 请打电话:  
Ako trebate pomoć u načelu telefonirajte:  
Αν χρειάζεστε διαπραγμάτευση τηλεφωνήστε στο  
Se avete bisogno di un interprete, telefonate al numero:  
اگر ب توجیه خطای احتیاج دارید به این شماره, دتال کنید:  
Se voce precisar da ajuda de um intérprete, telefone:  
Ako vam je potrebna pomoć prevodilaca telefonirajte  
Si necessita la asistencia de un intérprete, llame al:  
Телефона итудуваеуз varsa илден телефон едінізі:  
Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

TRANSLATING AND INTERPRETING SERVICE  
131 450

Canberra and District - 24 hours a day, 7 days a week

# INFORMATION

Everything  
you ever wanted  
to know about

Land (Planning and Environment)  
Act 1991

Home Business

When and How to  
Seek Approval

PLANNING AND LAND MANAGEMENT  
July 2001

ANNEXURE "A"

ACT Urban Services Department

Ph

## **Do I need approval to conduct my business from home?**

The Territory Plan and the Land Planning and Environment Act 1991 provide for residents to conduct businesses from their home.

Many small scale, home occupations now no longer need approval. Approval is not required if you conduct a "Home Occupation". That means the use of residential land for carrying on a profession, trade, occupation or calling on the land which:

(a) causes no noticeable adverse impact to neighbours additional to the ordinary use of that land for its permitted residential purpose, and

(b) conforms with the following requirements:

(i) a maximum of two persons, and only bona fide residents, are employed on the land at any one time;

(ii) goods related to the business are not displayed in windows or outside the building;

(iii) the use does not result in the storage on the land of materials obtained for, or generated by, the business other than within the confines of approved structures;

(iv) the use does not, or is unlikely to cause pollution, create a health hazard or present a danger, which is prohibited under any relevant Territory legislation and/or Code of Practice (as may vary from time to time);

(v) provision is made for the parking of commercial vehicles used in the occupation within a garage or carport, or on existing driveways within the land boundaries, or in a suitably screened location on the land;

(vi) provision is made for the parking of all customer/client vehicles on existing driveways within the land boundaries or in a suitably screened location on the land;

(vii) traffic generated by the use does not unacceptably affect the flow of local traffic;

(viii) the maximum gross floor area used (including storage) is 40m<sup>2</sup>; and

(ix) relating associated with the Home Occupation does not, or is unlikely to generate an increase in traffic, parking demand or noise, which is unreasonably deleterious to the amenity of the surrounding area.

## **When do I need to seek approval?**

If your business is conducted on a larger scale and either:

(i) employs anyone who is not a resident of the land; or

(ii) does not meet any one of the other home occupation criteria mentioned above.

You still may be able to operate a business from home, but approval from Planning and Land Management will be necessary. This is known as a "Home Business". Approvals can be for a term up to 5 years and relate to the applicant only and are not transferable.

## **Processes - what's new?**

For those who need to apply, you must fill in a Development Application (DA) form. Your DA will be processed within a statutory period of time and its progress will be monitored using a computer-based tracking system. Many of the processes have been adapted from previous practices and then streamlined to give you a better service.

All applicants for Home Business approval will have the right of appeal to the ACT Administrative Appeals Tribunal against the decision or any conditions imposed. Some applications may require a public notification process to be carried out and in those cases third parties may also have a right of appeal.

## **Where do I get more information?**

An information package is available which sets out our application requirements for the type of development you are proposing. Copies of the information package are available at the Planning and Land Management (PALM) Customer Service Centre. PALM staff will explain the application process to you and the advantages of the pre-application meetings that are available.

## **Where do I lodge my DA?**

All DA's must be lodged at the PALM Customer Service Centre or posted to GPO Box 1908, Canberra ACT 2601. If DA's received through the post are incomplete they

cannot be accepted and will be returned to the applicant.

## **Can anyone else help me with my DA?**

Ask the PALM Customer Service staff about a pre-application meeting which is available to you.

Professional consultants, such as valuers, planners, surveyors, solicitors, and property consultants, may be able to provide you with further assistance.

## **Do I have to pay an application fee or any other fees and charges?**

Yes, for details please see the Fees and Charges booklet or contact our Customer Service Centre.

## **Is my DA confidential?**

No, your DA will be available for public inspection, but some personal and business details can be treated confidentially and not released, provided you submit a "Request for Exemption from Public Inspection" form and your request is approved.

## **How is my DA actually processed?**

Once your DA is lodged at the Customer Service Centre, either directly or following its receipt through the mail, it will be forwarded to the leasing and planning area of the ACT Government. Details of your application may be sent to other government agencies and, unless exempted by law or by the Territory Plan, to adjoining lessees.

Public notification of the DA may be required by the Act. You are required to bear the costs associated with public notification.

Copies of submissions received as a result of the notification process will be sent to you for your consideration and possible comment.

Once a decision on the outcome of your DA is made, you will be notified, as will the agencies, organisations and individuals who made comments.

## **How long will it take to consider my DA?**

The application will be processed within a maximum prescribed period but the minimum time will depend on



Australian  
Capital Territory  
Government

Planning and Land  
Management

# Requirements & Checklist

## Home Business Development Application

You are required to complete this *Requirements & Checklist* for Home Business approval and submit it with your application, or your application cannot be accepted. **Please note, if complete and accurate details and information are not provided, additional information may be sought, the application may be subject to delay and/or the application may be rejected as incomplete.**

### Pre-application Meeting

Have you attended a Pre-application Meeting? We strongly recommend that you attend one prior to lodging your application. This meeting will streamline the assessment process for you by minimising any potential areas which may delay processing your application. The role and procedures of the pre-application meeting are described in the *Information Sheet (form 2)* and the *Checklist for Pre-application Meeting (form 3)*. You can arrange a pre-application meeting through the Applications Secretariat on telephone 6207 1687.

### Application Form

You are required to fill in all details as requested on the *Development Application* form and pay an application fee on lodgement.

### Assessment Criteria

In preparing your proposal for a Home Business you must take into account the following Assessment Criteria and Performance Controls laid down in the ACT Territory Plan.

A home business may only be permitted where:

- at least one worker is a bona fide resident of the block
- the operation of the business does not cause unreasonable annoyance, nuisance or danger and is not offensive to any tenant or occupant of adjoining land
- goods related to the business are not displayed in windows or outside the building
- provision is made for the parking of all customer/client vehicles behind the building line or in a suitably screened location on the block

- the use does not generate pollution, create a health hazard or cause annoyance to neighbouring land uses which would invoke the provisions specified in the Environmental Protection Act 1997, the Hazardous Chemicals and Waste Control Act 1991, and the Public Health Act 1928
- traffic generated by the business does not unacceptably affect the flow of local traffic
- the use does not result in the storage on the block of materials obtained for or generated by the business other than within the confines of approved structures
- the retail sale of goods other than those goods which are ancillary to the main purpose of the business is not carried out on the block

### Performance Controls

Objectives and Performance Measures (PM)

To protect the amenity of the area by:

- restricting the agglomeration of non-residential activities
  - PM - Maximum of two home businesses per section
- ensuring that the scale of home business is compatible with the residential character of the locality
  - PM - Maximum gross floor area of business (including storage) of 40m<sup>2</sup>
  - PM - Maximum of three persons (including resident workers) employed on the site
  - PM - Maximum of one commercial vehicle operating from or parked within the site

Where the proposal meets the above performance objectives but not the performance measures, the application may still be considered for approval. In these cases, full public notification is required.

OFFICE USE ONLY

Application number

Date registered

/ /

# Attachments required with your application

If there are **no building alterations or additions** proposed, please provide information requested in Section A only.

If alterations or additions are proposed please provide information requested in Sections A & B..

Please Note: 'PM' indicates Performance Measures as previously detailed.

Pre-application Meeting

I have attended the Pre-application meeting? Yes  No

If not, you are encouraged to arrange one before lodging this application

## SECTION A

Information to be provided by all applicants for home business approval

### Part 1: Details of business

Name and type of business


Term of approval  
(Maximum term is 5 years)

Brief description of nature of business


Have you previously been carrying out this business at this address as a home occupation?

No  Yes

Will the business involve any retail sales?

No  Yes  Please give details of products/type of selling


Proposed days and hours of operation?

Days  Hours

Details of people to be engaged in the business

**PM - Maximum of 3 workers including resident workers**

	Capacity of employment	Resident	
Worker 1	<input type="text"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/>
Worker 2	<input type="text"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/>
Worker 3	<input type="text"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/>

Anticipated number of visitors generated by the business

Maximum daily  Maximum at any one time

Will the business involve the use of commercial vehicles?

No  Yes  Please give details of number and type of vehicles


On-site parking arrangements (see also plan details)


Will the business involve the use of delivery vehicles?

No  Yes  Please give details of type of vehicles and frequency of deliveries


Details of machinery, motors, generators to be used within and outside the house (state the number of kilowatts if applicable)


Any other relevant details such as chemicals to be used or noise generating activities

## Part 2: Details of Premises

Total area of the house and all other structures used as garaging and other out buildings

House \_\_\_\_\_ Garages/  
stores \_\_\_\_\_ Other  
structures \_\_\_\_\_

What is the total area of space to be used solely for business purposes

\_\_\_\_\_ ▶ PM: Maximum gross floor area of business (including storage) of 40m<sup>2</sup>

What is the total area of space to be used for both residential and business purposes

\_\_\_\_\_ ▶ PM: as above - share areas are measured as half the area used.

Are any alterations or additions to the property proposed?

No

Yes  ▶ Please also complete Form 5 for Design and Siting

## Part 3: Signs

Attach details of any current or proposed sign or advertising device including dimensions, materials, colour, and exact location

**NB. The maximum permitted sign for residential premises is restricted to a maximum surface area of 0.2m<sup>2</sup> for single residential sites and 0.8m<sup>2</sup> for multi-unit sites**

## Part 4: Plans

Attach a clearly dimensioned floor and site plan of the property indicating the following:

- all areas of the property where the business is to be carried out
- all areas to be used for both residential and business purposes
- the location, number and dimensions of on-site parking indicating whether for staff, visitors, residents and commercial vehicle
- existing and proposed landscaping and screening

## Part 5: Consultation Report

- attach a Consultation Report (2 copies) giving details of discussions about your proposal with all neighbours and adjacent property owners, or their representatives.

## Part 6: Exemption from Public Inspection

I wish to seek exemption from public inspection and have completed and attached the form (form 6) Yes  No

# SECTION B

To be completed if any building alterations or additions are proposed

Tick if provided with your application.

### 1a) Site Plan (5 copies) at 1:200 scale showing:

- block boundaries of your property and adjacent blocks
- block and section numbers
- true north
- dimensions and area of block
- natural ground level contours at 0.5m intervals related to Australian Height Datum (AHD) and finished ground levels
- existing buildings on site to be retained or demolished
- survey and evaluation (species, height, dripline, trunk diameter, condition, etc.) of existing trees and underground services on/adjacent to block



- landscape plan, (trees to be removed identified), details of tree protection measures during construction
- location of proposed alterations and/or additions in relation to lease boundaries and all other buildings on the block
- general intentions for treatment of areas not built on, including driveways, carpark areas, service areas, landscaping
- location/number of resident and visitor car parking spaces, including garages and carports
- location of existing/proposed driveways
- location of proposed external storage areas
- location of proposed bicycle parking areas
- location of garbage storage areas and external clothes drying and storage areas
- other information required by special Development Conditions attached to the site

**1b) Floor Plans, Elevations and Sections (5 copies at 1:100 or 1:50 scale:**

Floor plans of each floor level in each building showing:

- external dimensions of buildings
- proposed use of each space in buildings
- finished floor levels related to AHD

**Elevations (each face of building) showing:**

- natural and finished ground lines
- floor to floor and floor to ceiling heights and height above natural ground to top of wall
- external materials and finishes

**Sections through the building showing:**

- natural and finished ground lines to property boundaries;
- floor to floor and floor to ceiling heights and height above natural ground

**2. Encroachments**

- details of any signs or parts of existing or proposed buildings which extend beyond the legal boundary

**3. If the application is located within the B11 and B12 North Canberra Areas or the B2 Kingston/Griffith Residential Area or the Forrest, Red Hill, Deakin and Griffith Historic Areas or relates to a property listed on the Interim Heritage Places Register and the Heritage Places Register particular requirements are necessary including:**

- location of buildings/vegetation on surrounding blocks and verges
- height of buildings in the area
- a brief written report which discusses the history; architecture; landscape; traffic and infrastructure; subdivision pattern of the site and immediately surrounding area

I understand that the requirements set out in this *Requirements & Checklist* are the minimum only and that additional information may be requested during processing.

Please note, if complete and accurate details and information are not provided, additional information may be sought, the application may be subject to delay and/or the application may be rejected as incomplete.

Signature(s)

\_\_\_\_\_

Date

\_\_\_\_ / \_\_\_\_ / \_\_\_\_

Block

\_\_\_\_\_

Section

\_\_\_\_\_

Suburb

\_\_\_\_\_



Australian  
Capital Territory  
Government

Planning and Land  
Management

Does the new  
Commonwealth  
Environment  
Protection and  
Biodiversity  
Conservation  
Act 1999 affect  
your proposal  
(Please refer to  
the back page)

OFFICE USE ONLY

Application number

Technical check

Public notification

Yes  No

Fees

Date received

Receipt number

Receiving officer

# Development Application

This application form must be accompanied by the  
*Requirements and Checklist* (form 4) relevant to your application

## When should you use the Development Application Form (DA)?

This form is required for development, redevelopment and land use  
proposals within the ACT. Do not use this form for:

- Proposals concerning standard single dwelling residential developments, use the **Single Dwelling Development Application form**;
- Proposals seeking to amend an approved DA or current application, use a **DA Amendment form**.

**Note:** The information you give on this form may be given to Government and Non-Government Agencies. See Privacy Notice on the back page. If you require help to complete the application form please contact the PALM Customer Service Centre during business hours 8.30am to 4.30pm Monday to Friday, phone (02) 6207 1923.

## Part 1: Lease/Site details

If more than one lease, attach the following details for each lease.

Block

Section

Suburb/District

Unit (if applicable)

Street address

## Part 2: Applicant details

Surname or Company name

Title / First Name / initials or  
Australian Company Number (ACN)

If a company, Name of contact person

Postal address

Street address (if different)

Phone number (business hours)

Fax number

Email

Did you know? Our application forms can be downloaded from our website at: [www.palm.act.gov.au](http://www.palm.act.gov.au)

### Part 3: Applicant's declaration

I/we the undersigned, being the applicant(s) nominated in this application, hereby apply for approval to carry out the development described in this application on the land specified in this application.

I/we hereby direct and authorise the ACT Government to erect sign/s on the subject property(s).

I/we hereby authorise ACT Government Officers to access the subject property(s) for the purpose of evaluating the proposal.

I/we understand that payment of additional notification fees may be required.

I/we declare that all the information I/we have given on this form and its attachments is true and complete.

Signature(s)

If a company, capacity/authority

Date

### Part 4: Lessee (Owner) details

#### 1st Lessee's details

Surname or Company name

Title / First Name / Initials or  
Australian Company Number (ACN)

If a company, Name of contact person

Postal address

Phone number (business hours)

Fax number

Email

#### Lessee's agreement to Development Application

Signature

#### 2nd Lessee's details

Surname or Company name

Title / First Name / Initials or  
Australian Company Number (ACN)

If a company, Name of contact person

Postal address

Phone number (business hours)

Fax number

Email

#### 2nd Lessee's agreement to Development Application

Signature

- All lessees must sign authorising the lodgement, or a Power of Attorney must be attached. If there are more than two lessees, please ensure that details and authorisation are attached to the application for each lessee.

- If the lessee is a registered company, organisation or government agency you must execute this application in the proper manner for that company, organisation or government agency. For example, if the lessee is a community organisation, the full name of the community organisation must be stated and the signatory must identify what position of authority he/she holds in the organisation.

- To verify the signature of a lessee who is an organisation or government agency, a Letter of Authority must be supplied when lodging the application that empowers the signatory to sign on the behalf of that organisation or government agency.

- Any application made over a site which has been Unit Titled will require Body Corporate approval.

- Please contact PALM to confirm the wording for all lease variations to avoid possible delays.

## Part 5: Please briefly describe your proposal

---

---

---

---

---

---

---

---

---

---

---

---

- Please tick all boxes relevant to your proposal. The supplementary information requested in the 'Requirements and Checklist' form will help you decide which boxes to tick here.

## Part 6: Summary information

Will your proposal require approval for:

- Design and siting
- Heritage works
- Lease variation
- Subdividing land
- Consolidating land
- Mining and quarrying
- Home business
- Demolition
- Use of unleased land
- Encroaching beyond lease boundaries
- Damaging or removing protected trees

Does your proposal involve:

- Commercial
- Dual occupancy
- Multi-unit residential
- Industrial
- Signs

If varying a lease, will it involve:

- Purpose clause
- Development rights
- Gross floor area
- Addition of land
- Excision of land
- Boundary realignment
- Lease renewal
- Land rent payout

- More information on Tree protection (Interim Scheme) ACT 2001 is detailed on the next page of this application form.
- Please note that the estimated cost to be stated here is to include the cost of all associated works such as landscaping, parking, etc. as well as off site works.

What is the estimated cost of the development as calculated in accordance with Building Note 25?

\$ \_\_\_\_\_

Building details in brief (if and as applicable)

Existing GFA \_\_\_\_\_ m<sup>2</sup>  
 Added GFA \_\_\_\_\_ m<sup>2</sup>  
 Number of units \_\_\_\_\_  
 Number of storeys \_\_\_\_\_

For mixed commercial developments, please indicate GFA break-up

Restaurant/cafe \_\_\_\_\_ m<sup>2</sup>  
 Shop \_\_\_\_\_ m<sup>2</sup>  
 Office \_\_\_\_\_ m<sup>2</sup>  
 Residential \_\_\_\_\_ m<sup>2</sup>  
 Other \_\_\_\_\_ m<sup>2</sup>  
 Total \_\_\_\_\_ m<sup>2</sup>

- "GFA" means gross floor area

## TREE PROTECTION (INTERIM SCHEME) ACT 2001

### Is my tree protected?

It depends. Under the *Tree Protection (Interim Scheme) Act 2001* your tree is a Significant Tree and protected if it is growing on urban leased land and it has:

- a height of 12m or more; or
- a circumference of 1.5m (approx. 0.5m in diameter) or more at 1m above ground level; or
- two or more trunks and the total circumference of all the trunks, 1m above ground level, is 1.5m or more; or
- a minimum crown width of 12m or more.

The average single storey house is 6m high at the roof ridge line. So, as a guide, a significant tree will be over twice the height of a standard house.

### What is my tree protected from?

'Tree Damaging Activity' is defined as felling, removing, ringbarking, lopping and topping, poisoning or any ground work under the canopy of the tree or within a 2m wide area out from the canopy, that is likely to harm the health of the tree. Ground work includes building, trenching, changing the soil level and compacting or contaminating the soil.

Maintenance pruning that does not affect the overall appearance of the tree or pruning required for power line cleaning is not considered as 'damage' and does not require approval.

### How do I get approval to undertake a 'Tree Damaging Activity'?

Contact the Environment Act Helpline on 62079777 for an application form for Approval to Undertake a Tree Damaging Activity. Forms are also available from the Environment ACT internet site.

[www.act.gov.au/environ](http://www.act.gov.au/environ)

### Penalty

It is an offence to undertake a 'tree damaging activity' on a significant tree without approval. A penalty of up to \$10,000 applies. This applies to both the tree owner and contractors engaged to undertake the work.

### Does the new Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC) affect your proposal

The EPBC came into operation on 16 July 2000. It establishes an environmental assessment and approval system that is separate and distinct from the ACT system. It does not affect the validity of ACT development assessment and approval processes.

The EPBC regulates proponents directly and civil and criminal penalties apply for breaches of the Act. Therefore, although the EPBC is not an Act for which the ACT has any responsibility, the Urban Services Department has prepared advice (available at the PALM Customer Service Centre) to assist ACT stakeholders to become aware of their obligations to the Commonwealth Government under the EPBC.

The ACT cannot provide preliminary advice on whether a proposal falls within the definition of a controlled action, or requires referral to the Commonwealth. For information about the EPBC, including the referral process and when a referral should be made, contact:

Environment Australia's  
Community Information Unit  
GPO Box 787  
CANBERRA ACT 2601

Telephone: 1800 803 772

### Privacy Notice

The personal information on this form is being collected to enable processing of your application. Collection of personal information is authorised by Part VI of the Land (Planning and Environment) Act 1991. The information that you provide may be disclosed to the ACT Revenue Office and the Registrar-General's Office. The information may be accessed by ACTEW Corporation and commercial organisations interested in building information.

The Land (Planning and Environment) Act 1991 requires the details of applications, approvals and orders to be kept on a register and made available for public inspection.

Office use only