



New South Wales

City of Sydney Amendment Act 1997 No 79

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New South Wales

City of Sydney Amendment Act 1997 No 79

Act No 79, 1997

An Act to amend the *City of Sydney Act 1988* to enhance the environmental planning powers of the Sydney City Council and the Central Sydney Planning Committee and to alter the constitution and functions of the Planning Committee. [Assented to 10 July 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *City of Sydney Amendment Act 1997*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of City of Sydney Act 1988 No 48

The *City of Sydney Act 1988* is amended as set out in Schedules 1 and 2.

Schedule 1 Amendments relating to environmental planning

(Section 3)

Part 6

Insert after Part 5:

Part 6 Special environmental planning powers

59 Rectification of landscape—uncompleted development

- (1) This section applies if the City Council has adopted a local orders policy under Part 3 of Chapter 7 of the Principal Act that specifies the criteria that the City Council must take into consideration in determining whether or not to give an order in accordance with this section.
- (2) Section 164 of the Principal Act does not apply to such a local orders policy.
- (3) The City Council may order the owner or occupier of land to which the *Central Sydney Local Environmental Plan 1996* applies:
 - (a) on which uncompleted development exists, and
 - (b) on which no substantial work to complete the development has been carried out during the period of 18 months (determined consecutively or cumulatively) before the order is given,to do such things as are specified in the order to rectify the landscape of the land if the development, because of its uncompleted state, adversely affects the visual amenity of the City of Sydney (or a part of the City of Sydney).
- (4) An order may specify only one or more of the following:
 - (a) that the demolition of buildings be completed,
 - (b) that builder's debris and rubble be removed,
 - (c) that a hoarding or other secure fencing be erected,
 - (d) that decorative panels be attached to hoardings and fences,

- (e) that the land be landscaped,
 - (f) that landscaping items be maintained or, in the case of plants that are dead or damaged, be replaced,
 - (g) that lighting be installed,
 - (h) that such other things of an incidental nature as may be specified in the order be done,
 - (i) that such things as may have been agreed to by the person to whom the order is given be done.
- (5) This section does not authorise the City Council to order the filling-in of an excavation or the installation of drainage works.
- (6) An order under this section is taken to be an order under section 124 of the Principal Act.

60 Rectification of landscape—agreements with owners

- (1) The City Council or the Planning Committee may refuse to consider a development application for the development of land to which the *Central Sydney Local Environmental Plan 1996* applies and that is made by or with the consent of the owner of the land unless the owner enters into an agreement with the City Council under which the owner agrees to do such things as may be reasonably required in the agreement in order to rectify the landscape of the land if the development, because of its uncompleted state, adversely affects the visual amenity of the City of Sydney (or a part of the City of Sydney).
- (2) The City Council or the Planning Committee may, in the case of a development application for the development of land to which the *Central Sydney Local Environmental Plan 1996* applies that is made by the owner of the land, impose as a condition of development consent a requirement that the owner enter into an agreement with the City Council under which the owner agrees to do such things as may be reasonably required

- in the agreement in order to rectify the landscape of the land if the development, because of its uncompleted state, adversely affects the visual amenity of the City of Sydney (or a part of the City of Sydney).
- (3) An agreement must comply with a policy approved by the Minister for the time being administering the Planning Act and adopted by the City Council.
- (4) An agreement may make provision only for one or more of the following:
- (a) that the demolition of buildings be completed,
 - (b) that builder's debris and rubble be removed,
 - (c) that a hoarding or other secure fencing be erected,
 - (d) that decorative panels be attached to hoardings and fences,
 - (e) that the land be landscaped,
 - (f) that landscaping items be maintained or, in the case of plants that are dead or damaged, be replaced,
 - (g) that lighting be installed,
 - (h) that such other things of an incidental nature as may be specified in the agreement be done,
 - (i) that such things as may have been agreed to by the owner of the land be done.
- (5) An agreement cannot require an owner to fill in an excavation or to install drainage works.
- (6) An agreement binds a successor in title to the land.
- (7) This section does not affect the power of the City Council or the Planning Committee to enter into any other agreement concerning the land or its development or to impose any other conditions of development consent.

61 Development contributions

- (1) Despite Part 4 of the Planning Act, a contributions plan prepared and approved under section 94AB of that Act in respect of the whole or any part of the land to which the *Central Sydney Local Environmental Plan 1996* applies may authorise the imposition of a condition that the applicant for development consent pay a levy to the City Council of 1% of the cost, as estimated by the consent authority, of the proposed development.
- (2) Such a contributions plan cannot authorise the imposition of such a levy on so much of a proposed development as comprises residential accommodation (within the meaning of the *Accommodation Levy Act 1997*) within a place of accommodation to which the *Accommodation Levy Act 1997* applies.
- (3) Such a contributions plan must specify the purposes for which any such levy is to be used. Any such levy must be used for the purposes so specified.
- (4) A contributions plan prepared and approved as referred to in this section:
 - (a) is not subject to section 94AB (3) or 94A of the Planning Act, and
 - (b) does not have to comply with clause 26 of the *Environmental Planning and Assessment Regulation 1994* (or any clause made in substitution for or by way of replacement of that clause).
- (5) The City Council must not approve a contributions plan that contains a provision authorised by this section unless it has first obtained the concurrence of the Minister administering Part 4 of the Planning Act.

62 Waiver of tendering requirements—conditional donations to public space improvement projects

If

- (a) a person makes a donation, subject to conditions, to carry out a public space improvement project of the City Council, and

- (b) in order to give effect to such a condition, the City Council enters into a contract with the person or another person to carry out the project, or a part of the project,

section 55 of the Principal Act does not apply to the contract.

63 Donations to public space improvement projects

- (1) The City Council must include in any publication that advertises, promotes or disseminates information concerning a public space improvement project a statement to the effect that the acceptance of a donation will not limit or affect the exercise by the City Council of any of its functions, except as provided by section 62.
- (2) The City Council must table a statement at the meeting of the City Council that next follows the making of a donation to a public space improvement project, being a statement that includes the following:
 - (a) the name of the person making the donation,
 - (b) the nature of the donation,
 - (c) any conditions to which the donation was subject.
- (3) The City Council must include in its annual report under section 428 of the Principal Act:
 - (a) a summary of donations made during the year to which the report relates to public space improvement projects, and
 - (b) a list of the public space improvement projects undertaken during that year.

Schedule 2 Amendments relating to the Central Sydney Planning Committee

(Section 3)

[1] Section 31 Definition of “major development”

Omit the definition. Insert instead:

major development means development carried out or proposed to be carried out on land within or partly within the City of Sydney, being:

- (a) development the estimated cost of which exceeds 50 million dollars, or
- (b) development the subject of a development application which, if unconditional consent were to be granted to the application, would not comply with an environmental planning instrument that applies to the land concerned, or
- (c) development the subject of a development application, or development of a specified class, that the Minister administering Part 4 of the Planning Act has requested the Planning Committee to deal with.

[2] Section 34 Members of the Planning Committee

Omit “9 members”. Insert instead “7 members”.

[3] Section 34 (1) (b)

Omit the paragraph. Insert instead:

- (b) a senior government employee with architectural experience nominated by the Minister administering the *Public Works Act 1912*,

[4] Section 34 (1) (e)

Omit the paragraph. Insert instead:

- (e) 2 persons appointed, subject to subsection (2), by the Minister administering Part 4 of the Planning Act.

[5] Section 34 (2)

Omit the subsection. Insert instead:

- (2) Of the persons appointed under subsection (1) (e):
 - (a) one person must have special knowledge of and experience in architecture, building construction, civic design, engineering, transport planning, tourism or the arts and the other person must have special knowledge of and experience in heritage conservation or environmental planning, and
 - (b) neither person may be a government employee or a local government employee, and
 - (c) neither person may have an actual or potential conflict of interest arising from development carried out or proposed to be carried out in the area to which this Act applies.

[6] Section 39

Omit the section. Insert instead:

39 Planning Committee's role in planning controls

- (1) The City Council must not prepare a draft environmental planning instrument or submit a draft environmental planning instrument to be made unless the Planning Committee has approved of the draft environmental planning instrument.
- (2) The Planning Committee may require the City Council to prepare a draft environmental planning instrument, or to submit a draft environmental planning instrument to be made, to enable the carrying out of non-complying major development the subject of the requirement. The City Council must exercise such of the Council's functions (including functions under the Planning Act) as may be necessary to cause the required draft environmental planning instrument to be made or approved.

- (3) In this section:

non-complying major development means major development the subject of a development application which, if unconditional consent were to be granted to the application, would not comply with an environmental planning instrument that applies to land to which the application applies.

[7] Section 40

Omit the section. Insert instead:

40 Determination of major development applications

- (1) The Planning Committee has and may exercise the functions of the City Council under Parts 4, 5,6 and 8 of the Planning Act in relation to the carrying out of major development, to the exclusion of the City Council (subject to any delegation under this section).
- (2) The Planning Committee may delegate to an authorised person or body the exercise of any of the Committee's functions under subsection (1) with respect to a particular application for development consent or with respect to any class of applications for development consent. A delegation can be given subject to conditions. A delegation does not (despite section 38) require the approval of the Minister.
- (3) The Planning Committee, or a delegate, must not exercise a function under this section that will result in the making of a decision that will have, or that might reasonably be expected to have, a significantly adverse financial impact on the City Council until after it has consulted with the City Council.
- (4) In this section:
- authorised person or body* means the City Council, the general manager of the City Council, the Chairperson of the Planning Committee, or any subcommittee of the Planning Committee.

[8] Schedule 1 The Planning Committee

Insert after clause 3:

3A Deputy Chairperson

- (1) The members of the Planning Committee are to elect a person from among their number to be the Deputy Chairperson of the Planning Committee.
- (2) The person may be elected for the duration of the person's term of office as a member or for a shorter term.

[9] Schedule 1, clause 4 (1)

Insert “, or the general manager of the City Council,” after “elected member”.

[10] Schedule 1, clause 4 (2)

Omit the subclause. Insert instead:

- (2) The Minister administering the *Public Works Act 1912* may appoint an officer of the Department of Public Works and Services to be the alternate member for the senior government employee with architectural experience.

[11] Schedule 1, clause 4 (4)

Insert “administering Part 4 of the Planning Act” after “Minister”.

[12] Schedule 1, clause 13

Omit “5 members”. Insert instead “4 members”.

[13] Schedule 1, clause 14 (1)

Insert “the Deputy Chairperson or, in the absence of both the Chairperson and the Deputy Chairperson,” before “another member”.

[14] Schedule 1 ,clause 14 (2)

Omit “deliberative vote only”.

Insert instead “deliberative vote and, in the event of an equality of votes, a casting vote”.

[15] Schedule 1, clause 14 (3)

Omit “The alternate member for the Lord Mayor of Sydney”.

Insert instead “An alternate member for the Chairperson or Deputy Chairperson”.

[16] Schedule 3 Savings, transitional and other provisions

Insert “or the *City of Sydney Amendment Act 1997*” after “this Act.” in clause 29 (1).

[17] Schedule 3, clause 29 (2)

Insert “to the Act concerned” after “assent”.

[18] Schedule 3, Part 8

Insert after Part 7:

**Part 8 Provisions consequent on enactment of
City of Sydney Amendment Act 1997**

30 Review of Amendments

- (1) The Minister is to review the amendments made to this Act by the *City of Sydney Amendment Act 1997* to determine whether the policy objectives of the *City of Sydney Amendment Act 1997* remain valid and whether the terms of the amendments made by that Act remain appropriate for securing those objectives.

- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to the *City of Sydney Amendment Act 1997*.
- (3) A report on the outcome of the review is to be tabled in each House Of Parliament within 12 months after the end of the period of 5 years.

[Minister's second reading speech made in—
Legislative Assembly on 28 May 1997
Legislative Council on 23 June 1997]