



New South Wales

Environmental Planning and Assessment Amendment Act 2006 No 8

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New South Wales

Environmental Planning and Assessment Amendment Act 2006 No 8

Act No 8, 2006

An Act to amend the *Environmental Planning and Assessment Act 1979* with respect to development contributions and to planning administrators and panels; to amend the *Growth Centres (Development Corporations) Act 1974* with respect to development corporations; to amend the *Redfern–Waterloo Authority Act 2004* with respect to development consent and the transfer of land; and for other purposes. [Assented to 3 April 2006]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Environmental Planning and Assessment Amendment Act 2006*.

2 Commencement

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

3 Amendment of Acts

The Acts specified in Schedules 1–4 are amended as set out in those Schedules.

Schedule 1 Amendment of Environmental Planning and Assessment Act 1979 No 203 with respect to contributions

(Section 3)

[1] Section 75R Application of other provisions of Act

Insert “, 94EF” after “94, 94A” in section 75R (4).

[2] Section 80A Imposition of conditions

Insert “, 94EF” after “94, 94A” in section 80A (1) (h).

[3] Section 93C Definitions

Insert in alphabetical order:

development corporation means a development corporation constituted under Part 2 of the *Growth Centres (Development Corporations) Act 1974*.

growth centre has the same meaning as it has in the *Growth Centres (Development Corporations) Act 1974*.

special contributions area means land for the time being described in Schedule 5A.

[4] Section 93E Provisions relating to money etc contributed under this Division (other than Subdivision 4)

Insert “(other than Subdivision 4)” after “this Division” wherever occurring in section 93E (1), (2) and (3).

[5] Section 93F Planning agreements

Omit “or 94A” from section 93F (3) (d). Insert instead “, 94A or 94EF”.

[6] Section 93F (5A)

Insert after section 93F (5):

(5A) A planning authority, other than the Minister, is not to enter into a planning agreement excluding the application of section 94EF without the approval of:

- (a) the Minister, or
- (b) a development corporation designated by the Minister to give approvals under this subsection.

[7] Part 4, Division 6, Subdivision 3, heading

Omit the heading. Insert instead:

Subdivision 3 Local infrastructure contributions

[8] Section 94A Fixed development consent levies

Insert after section 94A (2):

- (2A) A consent authority cannot impose a condition under this section in relation to development on land within a special contributions area without the approval of:
- (a) the Minister, or
 - (b) a development corporation designated by the Minister to give approvals under this subsection.

[9] Section 94D Section 94 or 94A conditions imposed by Minister or Director-General in growth centres etc

Omit section 94D (5).

[10] Part 4, Division 6

Omit the heading to Subdivision 4.

[11] Section 94EA Contributions plans—making

Insert “(other than Subdivision 4)” after “Division” in section 94EA (1).

[12] Section 94EA (2A)

Insert after section 94EA (2):

- (2A) A contributions plan does not authorise the imposition of a condition under section 94 on a grant of development consent if the public amenities or public services to which that condition relates are, in whole or in part, infrastructure provided, or to be provided, in relation to the development out of contributions collected under Subdivision 4.

[13] Section 94EA (4)

Insert after section 94EA (3):

- (4) A council is, as soon as practicable after approving a contributions plan, to provide the Minister with a copy of the plan.

[14] Section 94EAA

Insert after section 94EA:

94EAA Contributions plans—making, amendment or repeal by Minister

- (1) The Minister may direct a council, in writing, to approve, amend or repeal a contributions plan in the time and manner specified in the direction.
- (2) The Minister may make, amend or repeal a contributions plan if:
 - (a) a council fails to approve, amend or repeal the plan in accordance with a direction of the Minister under this section, or
 - (b) a council consents in writing to the Minister making, amending or repealing the plan.The plan, the amended plan or the repeal of the plan has effect as if it had been approved, amended or repealed by the council.
- (3) The Minister in making, amending or repealing a contributions plan under this section is not subject to the regulations.
- (4) A person cannot appeal to the Court under this Act in respect of:
 - (a) the making, amending or repealing of a contributions plan by or at the direction of the Minister under this section, or
 - (b) the reasonableness in the particular circumstances of a condition under section 94 that is determined in accordance with any such contributions plan,despite section 94B (3) or any other provision of this Act.

[15] Part 4, Division 6, Subdivisions 4 and 5

Insert after section 94EC:

Subdivision 4 Special infrastructure contributions

94ED Provision of infrastructure

- (1) In this Subdivision, a reference to the *provision of infrastructure* includes a reference to:
 - (a) the provision, extension and augmentation of (or the recoupage of the cost of providing, extending or augmenting) public amenities or public services, affordable housing and transport or other infrastructure relating to land, and

(b) the funding of recurrent expenditure relating to the provision, extension and augmentation of public amenities or public services, affordable housing and transport or other infrastructure, and

(c) the conservation or enhancement of the natural environment,

but does not include a reference to water supply or sewerage services.

(2) Subject to section 94EE (2) (c), infrastructure may be regarded as being provided in relation to development whether or not the infrastructure is provided on land within a special contributions area.

94EE Minister to determine development contributions

(1) The Minister is, subject to the regulations (if any), to determine the level and nature of development contributions to be imposed as conditions under this Subdivision for the provision of infrastructure in relation to a development or a class of development.

(2) In determining the level and nature of development contributions:

(a) the Minister is, as far as reasonably practicable, to make the contribution reasonable having regard to the cost of the provision of infrastructure in relation to the development or class of development, and

(b) if the cost of that infrastructure exceeds \$30 million—the Minister is to consult the Treasurer, and

(c) the Minister is not to take into account infrastructure provided on land other than that within the relevant special contributions area, unless, in the opinion of the Minister, the provision of the infrastructure on such land arises as a result of the development or as a result of a class of development of which the development forms a part.

(3) Despite subsection (2), the Minister may, if he or she sees fit, determine the level and nature of development contributions in the form of a levy of a percentage of the proposed cost of carrying out development or any class of development.

(4) In determining the level and nature of development contributions to be imposed as conditions under this Subdivision for development within a particular special contributions area (other

than a growth centre), the Minister is to do one or more of the following:

- (a) consult with owners of land in the special contributions area and other relevant stakeholders,
 - (b) publicly exhibit a proposal in relation to the level of development contributions and seek submissions within a reasonable time in relation to that proposal,
 - (c) establish a panel that, in the Minister's opinion, represents the interests of the various relevant stakeholders and consult with that panel.
- (5) The determination of the Minister:
- (a) is to contain reasons for the level and nature of the development contributions, and
 - (b) is to be made publicly available by the Minister.
- (6) A person cannot appeal to the Court under this Act in respect of a determination of the Minister under this section.

94EF Special infrastructure contributions

- (1) The Minister may direct a consent authority, in relation to development or class of development on land within a special contributions area, to impose a condition (determined in accordance with section 94EE) on a grant of development consent in relation to that land.
- (2) If the Minister is the consent authority, the Minister may impose a condition referred to in subsection (1) without giving a direction under that subsection.
- (3) A consent authority to which a direction is given under this section must comply with the direction in accordance with its terms. If the consent authority fails to do so, the Minister may impose the condition, and it has effect as if it had been imposed by the consent authority.
- (4) A condition imposed under this section is in addition to any condition that the consent authority may impose under section 94 or 94A in relation to the development.
- (5) The consent authority may, subject to the consent of the Minister, accept:
 - (a) the dedication of land in part or full satisfaction of a condition imposed in accordance with this section, or
 - (b) the provision of a material public benefit (other than the dedication of land or the payment of a monetary

contribution) in part or full satisfaction of a condition imposed in accordance with this section.

- (6) A person cannot appeal to the Court under this Act in respect of a direction of the Minister, or a condition imposed by a consent authority or the Minister, under this section.
- (7) A condition imposed by a consent authority or the Minister under this section cannot be modified without the approval of the Minister.

94EG Minister may make, amend or repeal special contributions areas

- (1) The Minister may, by order published in the Gazette, amend Schedule 5A for the purpose of:
 - (a) creating a special contributions area, or
 - (b) repealing a special contributions area, or
 - (c) changing a special contributions area.
- (2) Any such order may contain savings and transitional provisions.
- (3) Any such order takes effect on the day that it is published in the Gazette or such later date as may be specified in the order.
- (4) Before creating a special contributions area (other than a growth centre), the Minister is to consult with the peak industry organisations that the Minister considers to be relevant.

94EH Land contributed under this Subdivision

The Minister may direct a consent authority to sell all or part of any land it receives under this Subdivision or to transfer any such land to a public authority that is to provide, or has provided, infrastructure in relation to:

- (a) the development to which the land relates, or
- (b) the class of development to which that development belongs.

**Subdivision 5 Establishment of Special Contributions
Areas Infrastructure Fund**

94EI Definition

In this Subdivision:

the Fund means the Special Contributions Areas Infrastructure Fund established under section 94EJ.

94EJ Establishment of Fund

- (1) There is to be established in the Special Deposits Account a fund called the Special Contributions Areas Infrastructure Fund.
- (2) The Fund is to be administered by the Director-General. The Director-General is to consult the Secretary of the Treasury in relation to the administration of the Fund.

94EK Payments into Fund

The following is to be paid into the Fund:

- (a) monetary contributions received by a consent authority under Subdivision 4,
- (b) the proceeds of the sale of any land received by a consent authority under Subdivision 4,
- (c) any money appropriated by Parliament for the purposes of the Fund,
- (d) the proceeds of the investment of money in the Fund,
- (e) any other money required to be paid into the Fund by or under this or any other Act or the regulations under this Act.

94EL Payments out of Fund

- (1) The following is to be paid from the Fund:
 - (a) payments to public authorities for the provision of infrastructure in relation to development,
 - (b) any money required to meet administrative expenses in relation to the Fund,
 - (c) all other money directed or authorised to be paid from the Fund by this Act or by the regulations under this Act.
- (2) The assets of the Fund can only be applied for the purposes referred to in subsection (1).

94EM Investment of money in Fund

The money in the Fund may be invested:

- (a) in such manner as may be authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
- (b) if that Act does not confer power on the Department to invest the money, in any other manner approved by the Treasurer.

Schedule 1 Amendment of Environmental Planning and Assessment Act 1979 No 203
with respect to contributions

[16] Section 94F Conditions requiring land or contributions for affordable housing

Insert after section 94F (5):

- (6) A condition is not to be imposed under this section in relation to development that is within a special contributions area (within the meaning of Division 6).

[17] Schedule 5A

Insert after Schedule 5:

Schedule 5A Special contributions areas

(Sections 93C and 94EG (1))

- 1** land within any growth centre

[18] Schedule 6 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Environmental Planning and Assessment Amendment Act 2006

[19] Schedule 6

Insert at the end of the Schedule with appropriate Part and clause numbers:

**Part Provisions consequent on enactment of
Environmental Planning and Assessment
Amendment Act 2006**

Definition

In this Part:

amending Act means the *Environmental Planning and Assessment Amendment Act 2006*.

Contributions plans

Section 94EA (2A), as inserted by the amending Act, does not affect a condition imposed under section 94 before the commencement of section 94EA (2A) and any such condition continues to have effect as if that subsection had not commenced.

Contributions for affordable housing

Section 94F (6), as inserted by the amending Act, does not affect a condition imposed under section 94F before the commencement of section 94F (6) and any such condition continues to have effect as if that subsection had not commenced.

Review

- (1) The Minister is to review Subdivision 4 of Division 6 of Part 4 of this Act to determine whether the policy objectives of that Subdivision remain valid and whether the terms of this Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 3 years from the date of assent to the amending Act.
- (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 3 years.

Schedule 2 Miscellaneous amendments to Environmental Planning and Assessment Act 1979 No 203

(Section 3)

[1] Section 74F

Insert after section 74E:

74F Minister may direct councils with respect to development control plans

- (1) The Minister may, subject to the regulations (if any), direct a council to make, amend or revoke a development control plan in the time and manner specified in the direction.
- (2) A council to which a direction is given under this section must comply with the direction in accordance with its terms.
- (3) If a council fails to comply with a direction of the Minister under this section, the Minister may make, amend or revoke the development control plan as if the Minister were the council.
- (4) A development control plan made, amended or revoked by the Minister under this section has effect, or ceases to have effect as the case may be, as if it were made, amended or revoked by the council.
- (5) The Minister in making, amending or revoking a development control plan under this section is not subject to the regulations.
- (6) Section 74C (2) does not apply to development control plan made by or at the direction of the Minister under this section.

[2] Section 117 Directions by the Minister

Insert at the end of section 117 (2) (b):

, and

- (c) to provide the Minister, in the manner and at the times specified in the direction, with reports, containing such information as the Minister may direct, on the council's performance in relation to planning and development matters.

[3] Section 117 (4A)

Insert after section 117 (4):

- (4A) Before giving a direction under subsection (2) (c), the Minister is to consult with the Local Government and Shires Associations of New South Wales and any other industry organisation the Minister considers to be relevant, in relation to the information that the Minister is proposing to seek. This requirement is in addition to the requirement under subsection (4).

[4] Part 6, Division 1AA

Omit section 118. Insert instead:

Division 1AA Planning administrators and panels

117C Definitions

In this Division:

panel means a planning assessment panel listed in Schedule 5B.

planning administrator means a person appointed as a planning administrator under section 118.

118 Appointment of planning administrator or panel

- (1) The Minister may appoint a planning administrator or a panel (or both) to exercise functions of a council if:
- (a) the Minister is of the opinion that the council has failed to comply with its obligations under the planning legislation, or
 - (b) the Minister is of the opinion that the performance of a council in dealing with planning and development matters (or any particular class of such matters) is unsatisfactory because of the manner in which the council has dealt with those matters, the time taken or in any other respect, or
 - (c) the council agrees to the appointment, or
 - (d) a report referred to in section 74C of the *Independent Commission Against Corruption Act 1988* recommends that consideration be given to the appointment because of serious corrupt conduct by any of the councillors in connection with the exercise or purported exercise of functions conferred or imposed on the council by or under this Act.

- (2) A planning administrator may be appointed to exercise all or any particular function or class of functions of the council under this Act.
- (3) A panel may be appointed to exercise only all or any particular function or class of functions of the council:
 - (a) as a consent authority under Part 4, or
 - (b) in relation to making of environmental planning instruments under Part 3.
- (4) A panel may not exercise the functions of a council for a continuous period of more than 5 years.
- (5) If a panel exercises the functions of a council for a continuous period of more than 2 years, the Minister is, as soon as practicable after 2 years after the date on which the panel was appointed, to conduct a review of the appointment and functions of the panel.
- (6) A review under subsection (5) is to be conducted by the Minister in consultation with the Minister for Local Government, the Local Government and Shires Associations of New South Wales and any other industry organisation that the Minister considers to be relevant.
- (7) A planning administrator or panel is to be appointed by order of the Minister published in the Gazette.
- (8) Before appointing a planning administrator or panel, the Minister is to obtain the concurrence of the Minister for Local Government.
- (9) The Minister may appoint a planning administrator or a panel for a reason set out in subsection (1) (b) only if the Minister has, by order published in the Gazette, provided heads of consideration for the exercise of power under subsection (1) (b), and has taken those heads of consideration into account.
- (10) The Minister may make an appointment under subsection (1) (d) without conducting an inquiry but, in that case, the Minister is to inquire into the matter as soon as practicable with a view to confirming or revoking the appointment.
- (11) The Minister must, as soon as reasonably practicable after appointing a planning administrator or a panel, make the reasons for that appointment publicly available.

- (12) In this section:
- failure to comply with obligations under the planning legislation*** includes:
- (a) a failure to carry into effect or enforce the provisions of this Act, an environmental planning instrument or a direction under section 55, 94E or 117, or
 - (b) a failure to comply with the requirements of the staged repeal program under section 33B with respect to the preparation or making of a replacement local environmental plan.

serious corrupt conduct means corrupt conduct (within the meaning of the *Independent Commission Against Corruption Act 1988*) that may constitute a serious indictable offence, being conduct in connection with the exercise or purported exercise of the functions of a councillor.

118AA Planning assessment panels

- (1) The bodies listed in Part 1 of Schedule 5B from time to time are established by this Act as planning assessment panels.
- (2) A panel is a body corporate with the corporate name specified in Part 1 of Schedule 5B.
- (3) A panel is a statutory body representing the Crown and has the status, privileges and immunities of the Crown.
- (4) A panel is to consist of such members (being not less than 3 and not more than 5) as are appointed by the Minister.
- (5) The members of the panel are to be persons who together have, in the opinion of the Minister, relevant skills and knowledge in planning and development matters.
- (6) The Minister is to appoint a member of the panel as the chairperson of the panel.
- (7) Part 2 of Schedule 5B has effect with respect to the members and procedure of panels.
- (8) A panel is, in the exercise of its functions, subject to the control and direction of the Minister.
- (9) A panel is to provide the Minister with such information and material as the Minister may require in relation to its policies, programs and procedures.
- (10) Despite subsection (8), a panel is not subject to the control of the Minister in determining a development application.

- (11) The Minister may, by order published in the Gazette, amend Part 1 of Schedule 5B for the purpose of:
 - (a) establishing a panel, or
 - (b) abolishing a panel, or
 - (c) changing the name of a panel.
- (12) Any such order may contain savings and transitional provisions.

118AB Function of a planning administrator or panel

- (1) During the period of appointment, the planning administrator or panel:
 - (a) is to exercise the functions of the council under this Act that are specified in the order of appointment, and
 - (b) is, in the exercise of those functions, taken to be the council, and
 - (c) is to exercise those functions to the exclusion of the council except to the extent that the order of appointment provides otherwise, and
 - (d) is, in the exercise of those functions, to give priority to particular functions to the extent that the order of appointment so provides.
- (2) Despite subsection (1), a planning administrator or panel is not to enter into contracts in the exercise of the planning administrator's or panel's functions except:
 - (a) with the consent of the Minister and the concurrence of the Minister for Local Government, or
 - (b) in the case of contracts for the appointment of staff—with the authority conferred by a regulation made under section 118AF.
- (3) Subsection (1) has effect even if the appointment of the planning administrator or panel is subsequently found not to have been validly made.

118AC Costs of planning administrator or panel

- (1) A council, the functions of which are exercised by a planning administrator or panel, is to pay to the Director-General out of the council's consolidated fund, the remuneration and costs and expenses of the planning administrator or panel.

- (2) The Minister may do either or both of the following:
 - (a) exempt a council from payment of all or part of the remuneration and costs and expenses of the planning administrator or panel,
 - (b) resolve any dispute as to the amount of any such remuneration, costs or expenses.

118AD Council to assist planning administrator or panel

- (1) A council must, if directed to do so by the Minister, provide any of the following with such staff, facilities and documents as are specified in the direction:
 - (a) a planning administrator or panel appointed to exercise functions of the council,
 - (b) a staff member of any such planning administrator or panel,
 - (c) a member of any such panel.
- (2) A member of a council, or a member of staff of a council, must not obstruct any of the persons in subsection (1) (a)–(c) in the exercise of his or her functions under this Division.
Maximum penalty: 10 penalty units.
- (3) Before giving a direction under subsection (1), the Minister is to consult with the Minister for Local Government.

118AE Annual report on activities of planning administrators and panels

The Director-General is, in the annual report of the Department, to report on the activities of planning administrators and panels during the period covered by the annual report, including:

- (a) the financial activities of planning administrators and panels, and
- (b) the exercise of council functions by planning administrators and panels.

118AF Regulations

The regulations may make provision for or with respect to the appointment and functions of a planning administrator or panel and, in particular, for or with respect to:

- (a) the accommodation, if any, to be provided at the offices of the council for the planning administrator or panel and any other persons assisting the planning administrator or panel in the exercise of the planning administrator's or panel's functions, and

- (b) the appointment of staff by the planning administrator or panel to assist in the exercise of the planning administrator's or panel's functions.

[5] Schedule 5B

Insert before Schedule 6:

Schedule 5B Planning assessment panels

(Section 118AA)

Part 1 Panels

Part 2 Provisions relating to panels

Division 1 General

1 Definitions

In this Part:

chairperson means the person appointed by the Minister as the chairperson of the panel.

deputy chairperson means the deputy chairperson of the panel.

member means a member of the panel.

panel means a planning assessment panel listed in Part 1.

Division 2 Members

2 Terms of office of members

- (1) Subject to this Part and the regulations, a member holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment.
- (2) The period under subclause (1) may be determined by reference to the occurrence of a specified event.

3 Basis of office

The office of a member is a part-time office.

4 Remuneration

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

5 Deputies

- (1) The Minister may, from time to time, appoint a person to be the deputy of a member, and may revoke any such appointment.
- (2) In the absence of a member, the member's deputy may, if available, act in the place of the member.
- (3) While acting in the place of a member, a person has all the functions of the member and is taken to be a member.
- (4) A person may be appointed as the deputy of 2 or more members, but has only one vote at any meeting of the panel.
- (5) This clause does not operate to confer on the deputy of a member who is the chairperson or deputy chairperson the member's functions as chairperson or deputy chairperson.

6 Vacancy in office of member

- (1) The office of a member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause, or
 - (e) is absent from 3 consecutive meetings of the panel of which reasonable notice has been given to the member personally or by post, except on leave granted by the panel or unless the member is excused by the panel for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may remove a member from office for any or no reason and without notice.

7 Filling of vacancy in office of member

If the office of a member becomes vacant, a person is, subject to this Act and the regulations, to be appointed to fill the vacancy.

8 Chairperson and deputy chairperson

- (1) A panel may elect a deputy chairperson from among its members.
- (2) The chairperson or deputy chairperson vacates office as chairperson or deputy chairperson if he or she:
 - (a) is removed from that office by the Minister or the panel under this clause, or
 - (b) resigns that office by instrument in writing addressed to the Minister, or
 - (c) ceases to be a member of the relevant panel.
- (3) The Minister may at any time remove the chairperson or deputy chairperson from office as chairperson or deputy chairperson.
- (4) A panel may at any time remove the deputy chairperson of the panel from office as deputy chairperson.

9 Disclosure of pecuniary interests

- (1) If:
 - (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the panel, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the panel.
- (2) A disclosure by a member at a meeting of a panel that the member:
 - (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which

may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

- (3) Particulars of any disclosure made under this clause must be recorded by the panel in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the panel.
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the relevant panel otherwise determines:
 - (a) be present during any deliberation of the panel with respect to the matter, or
 - (b) take part in any decision of the panel with respect to the matter.
- (5) For the purposes of the making of a determination by a panel under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the panel for the purpose of making the determination, or
 - (b) take part in the making by the panel of the determination.
- (6) A contravention of this clause does not invalidate any decision of a panel.

10 Effect of certain other Acts

- (1) Chapter 2 of the *Public Sector Employment and Management Act 2002* does not apply to or in respect of the appointment of a member.
- (2) If by or under any Act provision is made:
 - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

11 Personal liability

A matter or thing done or omitted to be done by a panel, a member of a panel or a person acting under the direction of a panel does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.

Division 3 Procedure

12 General procedure

The procedure for the calling of meetings of a panel and for the conduct of business at those meetings is, subject to this Act, the regulations and the order appointing the panel, to be as determined by the panel.

13 Quorum

The quorum for a meeting of a panel is a majority of its members for the time being (including the chairperson or deputy chairperson).

14 Presiding member

- (1) The chairperson of a panel (or, in the absence of the chairperson, the deputy chairperson) is to preside at a meeting of the panel.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

15 Voting

A decision supported by a majority of the votes cast at a meeting of a panel at which a quorum is present is the decision of the panel.

16 Public meetings

A panel may conduct its meetings in public, and is required to do so for the conduct of any business that is required to be conducted in public by the order appointing the panel or by any subsequent order of the Minister.

17 Transaction of business outside meetings or by telephone

- (1) A panel may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the panel for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the panel.

- (2) A panel may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of:
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),the chairperson of the panel and each member of the panel have the same voting rights as they have at an ordinary meeting of the panel.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the relevant panel.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

18 First meeting

The Minister may call the first meeting of a panel in such manner as the Minister thinks fit.

Schedule 3 Amendment of Growth Centres (Development Corporations) Act 1974 No 49

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

chief executive means the chief executive of a development corporation within the meaning of section 6 (1A).

[2] Section 3 (1), definition of “Director-General”

Omit “Urban Affairs and”.

[3] Section 3 (1), definition of “member” and Schedule 2, clauses 9 (2) and 10 (4)

Omit “Director-General” wherever occurring.

Insert instead “chief executive”.

[4] Section 6 Provisions relating to constitution and procedure of development corporation

Omit section 6 (1), (1A) and (1B). Insert instead:

- (1) A development corporation is to consist of:
 - (a) not less than 4 persons appointed by the Governor, and
 - (b) the chief executive.
- (1A) The chief executive is to be:
 - (a) a person appointed by the Minister, or
 - (b) if from time to time no such person is appointed, the Director-General.
- (1B) The chief executive is responsible for managing the affairs of the development corporation subject to and in accordance with any directions given to the chief executive by the development corporation.
- (1C) The chief executive may be represented at any meeting of a development corporation by a person nominated for the time being by the chief executive. In so representing the chief executive, the person nominated has and may exercise and perform the same powers, authorities, duties and functions as the chief executive has at any meeting of a development corporation (including voting rights), and is taken to be the chief executive.

[5] Section 23

Insert after section 22:

23 Development corporation to prepare annual statement of business intent and other plans and reports

- (1) A development corporation is to prepare an annual statement of business intent and submit that statement to the Minister and the Treasurer at such times as the Minister directs.
- (2) A statement of business intent is to set out the business plan of the development corporation over the following year (or other period as may be required by the Minister) and is to include each of the following:
 - (a) the objectives of the corporation,
 - (b) the intended nature of its activities, including the intended scope of those activities,
 - (c) the corporation's performance targets,
 - (d) the corporation's accounting and reporting policies and practices,
 - (e) details of the corporation's activities in connection with determining, allocating and administering contributions under Divisions 6 and 6A of Part 4 of the *Environmental Planning and Assessment Act 1979*,
 - (f) any other matter required by the Minister.
- (3) A development corporation is to prepare and submit to the Minister and Treasurer such other statements, reports and plans as may be specified in writing by the Minister.
- (4) If the Minister or the Treasurer is not satisfied with a statement, report or plan submitted under this section, the Minister may direct the relevant development corporation to amend and resubmit the statement, report or plan in the manner and time specified.

[6] Schedule 2 Provisions relating to the constitution and procedure of development corporations

Omit clause 6 (1) (b).

[7] Schedule 6 Savings, transitional and other provisions

Omit clause 1. Insert instead:

1 References to General Manager and Director-General

- (1) A reference in any other Act or statutory instrument, or in any other instrument, or in any contract or agreement, to the General Manager of a corporation is to be construed:
 - (a) before the commencement of Schedule 3 [4] to the *Environmental Planning and Assessment Amendment Act 2006*—as a reference to the Director-General, and
 - (b) on or after that date—as a reference to the chief executive of that corporation.
- (2) A reference in any other Act or statutory instrument, or in any other instrument, or in any contract or agreement, to the Director-General, in respect of the Director-General's responsibilities as the chief executive of a development corporation, is, on or after the commencement of Schedule 3 [4] to the *Environmental Planning and Assessment Amendment Act 2006*, to be construed as a reference to the chief executive of that corporation.

[8] Schedule 6, clause 3

Omit the clause. Insert instead:

3 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
this Act
Growth Centres (Development Corporations) Amendment Act 1992
Environmental Planning and Assessment Amendment Act 2006
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or

Environmental Planning and Assessment Amendment Act 2006 No 8

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No 49

Schedule 3

- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Schedule 4 Amendment of Redfern–Waterloo Authority Act 2004 No 107

(Section 3)

[1] Section 19 Transfer of land or management of land of other public authorities

Insert after section 19 (1):

- (1A) The Minister administering the *Crown Lands Act 1989* may transfer to the Authority, subject to the terms and conditions agreed to between that Minister and the Minister administering this Act, Crown land within the operational area or the management of any such Crown land.
- (1B) Part 3 of the *Crown Lands Act 1989* and sections 34 (3)–(5) and 35 of that Act do not apply to any such transfer of Crown land.

[2] Section 19 (5)

Omit the definition of *public authority*. Insert in alphabetical order:

Crown land has the same meaning that it has in the *Crown Lands Act 1989* but does not include a Crown reserve within the meaning of section 34A of that Act.

public authority means a public authority constituted by or under an Act, and includes:

- (a) a government department, and
- (b) a statutory body representing the Crown, a State owned corporation within the meaning of the *State Owned Corporations Act 1989* and a subsidiary (within the meaning of that Act), and
- (c) a member of staff or other person who exercises functions on behalf of a public authority,

but does not include a council.

transfer of Crown land includes the sale, lease, exchange or other disposal of or dealing with Crown land or the grant of easements or rights-of-way over, or licences or permits in respect of, Crown land.

[3] Section 19 (6)

Insert “or the Minister administering the *Crown Lands Act 1989*” after “public authority”.

[4] Section 27A

Insert after section 27:

27A Authority as consent authority under Part 4 of Environmental Planning and Assessment Act 1979

- (1) This section applies to any development in the operational area that is identified under the *Environmental Planning and Assessment Act 1979* as development requiring consent under Part 4 of that Act and for which the Minister administering that Act is to be the consent authority.
- (2) The Minister administering the *Environmental Planning and Assessment Act 1979* may delegate to the Minister his or her functions as the consent authority for any development to which this section applies.
- (3) The Minister may subdelegate to the Authority, a member of staff of the Authority or the Council of the City of Sydney his or her functions as the consent authority for any development to which this section applies.

[5] Section 28 Authority as approval body for State infrastructure or other significant projects

Insert “, a member of staff of the Authority” after “Authority” in section 28 (3).

[6] Section 29 Heritage matters

Omit “a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* applies” from section 29 (1).

Insert instead “development to which Part 4 of the *Environmental Planning and Assessment Act 1979* applies (and for which a Minister is the consent authority) or that is a project to which Part 3A of that Act applies”.

[7] Section 29 (4)

Insert after section 29 (3):

- (4) The Minister may delegate the exercise of any function of the Minister under this section (other than this power of delegation) to the Authority or a member of staff of the Authority.

[8] Section 30 Development contributions for affordable housing

Omit section 30 (1). Insert instead:

- (1) This section applies to development:
 - (a) that is carried out on land within the operational area and that is development to which Part 4 of the *Environmental*

Planning and Assessment Act 1979 applies (and for which a Minister is the consent authority) or that is a project to which Part 3A of that Act applies, or

- (b) that is carried out on land that was the former Carlton United Brewery site at Broadway, Sydney, (being the site described in the contributions plan referred to in section 32) and that is a project to which Part 3A of that Act applies.

[9] Section 30 (1A)

Insert after section 30 (1):

- (1A) Despite subsection (1), this section does not apply to land in a special contributions area within the meaning of Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979*.

[10] Section 30 (2)

Insert “or under that Division” before “as applied”.

[11] Section 30 (2) and (5)

Omit “a project” wherever occurring. Insert instead “development”.

[12] Section 31 Development contributions (other than for affordable housing)

Omit “development that is a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* applies” from section 31 (1).

Insert instead “development to which Part 4 of the *Environmental Planning and Assessment Act 1979* applies (and for which a Minister is the consent authority) or that is a project to which Part 3A of that Act applies”.

[13] Section 31 (2)

Omit “The approval body may impose, as a condition of approval in relation to a project”.

Insert instead “The consent authority or approval body may impose, as a condition of development consent or approval in relation to development”.

[14] Section 31 (4)

Omit “approval”. Insert instead “approval or consent”.

[15] Section 31 (8) (a)

Omit “the approval body cannot impose as a condition of the same approval”.

Insert instead “the consent authority or approval body cannot impose as a condition of the same consent or approval”.

[16] Section 31 (8) (a)

Insert “(other than section 94EF)” after “that Division”.

[17] Section 32 Contributions plans and payment of development contributions

Insert after section 32 (1):

(1A) Any such contributions plan must not authorise the imposition of a condition under section 31 of this Act or section 94 of the *Environmental Planning and Assessment Act 1979* on a grant of development consent if:

- (a) the development is on land within a special contributions area within the meaning of Division 6 of Part 4 of that Act, and
- (b) the public amenities or public services to which that condition relates are, in whole or in part, infrastructure provided in relation to the development out of contributions collected under Subdivision 4 of Division 6 of Part 4 of that Act.

[18] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Environmental Planning and Assessment Amendment Act 2006

[19] Schedule 4, Part 3

Insert after Part 2:

Part 3 Provisions consequent on enactment of Environmental Planning and Assessment Amendment Act 2006

5 Definition

In this Part:

amending Act means the *Environmental Planning and Assessment Amendment Act 2006*.

6 Authority as consent authority

Section 27A, as inserted by the amending Act, applies to and in respect of a development application lodged before the commencement of that section.

7 Heritage

Section 29 (4), as inserted by the amending Act, applies to and in respect of the following:

- (a) a development application lodged before the commencement of that subsection,
- (b) development that has been declared, before the commencement of that subsection, to be a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* applies.

8 Development contributions for affordable housing

Section 30 (1A), as inserted by the amending Act, does not affect a condition imposed, before the commencement of that subsection, under Division 6A of Part 4 of the *Environmental Planning and Assessment Act 1979*, and any such condition continues to have effect as if that subsection had not commenced.

9 Contributions plans

Section 32 (1A), as inserted by the amending Act, does not affect a condition imposed, before the commencement of that subsection, under section 31 of this Act or section 94 of the *Environmental Planning and Assessment Act 1979*, and any such condition continues to have effect as if that subsection had not commenced.

[Second reading speech made in—
Legislative Assembly on 28 February 2006
Legislative Council on 8 March 2006]

BY AUTHORITY