

# Growth Centres (Development Corporations) Act 1974 No 49

[1974-49]



New South Wales

## Status Information

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **See also**  
[Statute Law \(Miscellaneous Provisions\) Bill \(No 2\) 2006](#)

### Authorisation

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New South Wales

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# Growth Centres (Development Corporations) Act 1974 No 49



New South Wales

An Act relating to the growth and development of certain growth centres; to provide for the constitution of development corporations in respect of those growth centres; to confer and impose certain responsibilities, powers, authorities, duties and functions on those corporations; and for purposes connected therewith.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Growth Centres (Development Corporations) Act 1974*.

### 2 (Repealed)

### 3 Definitions

(1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

**approved scheme** means an approved scheme referred to in section 15 or 16.

**building** includes any structure or any part thereof.

**building site** means land set apart as the site for a building under section 8 (1) (f).

**Chairperson**, in relation to a development corporation, means the chairperson of the development corporation.

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

**corporation** means a development corporation or the Ministerial Development Corporation.

**council** has the same meaning as it has in the *Local Government Act 1993*.

**description**, in relation to land, includes a description of land by reference:

- (a) to land within a local government area,
- (b) to land within a local government area, other than land specified or described as being excepted or excluded therefrom, and
- (c) to plans or other matters, whether of the same or a different kind or nature.

**development corporation** means a corporation constituted under Part 2.

**Director-General** means the Director-General of the Department of Planning.

**environmental planning instrument** means an environmental planning instrument within the meaning of the [Environmental Planning and Assessment Act 1979](#).

**growth centre** means the land for the time being described in a Part of Schedule 1.

**member**, in relation to a development corporation, means a member of the development corporation, and includes the chief executive.

**Ministerial Development Corporation** means the Ministerial Development Corporation constituted by Part 3A.

**public authority** means any public or local authority constituted by or under an Act other than this Act.

**regulations** means regulations made under this Act.

- (2) The responsibilities, powers, authorities, duties and functions conferred or imposed on a corporation shall be exercised or discharged:
  - (a) in the case of a development corporation—by the development corporation for the purposes of, or in connection with, the growth centre in respect of which the development corporation was constituted, or
  - (b) (Repealed)
- (3) (Repealed)

## **Part 2 Constitution of development corporations**

### **4 Constitution of development corporations**

- (1) Upon an order under section 5 (2) taking effect, there is hereby constituted a development corporation in respect of the growth centre specified in the order, under the corporate name specified therein.
- (2) For the purposes of any Act, a development corporation shall be deemed to be a statutory body representing the Crown.
- (3) In the exercise and discharge of its responsibilities, powers, authorities, duties and

functions, a development corporation shall, except where it makes a recommendation to the Minister, be subject in all respects to the control and direction of the Minister.

## **5 Orders**

- (1) The Governor may, by order published in the Gazette, amend Schedule 1:
  - (a) by inserting one or more Parts, each containing:
    - (i) in Column 1 the number of the Part, and
    - (ii) in Column 2, opposite that number, a description of land,
  - (b) by omitting any Part,
  - (c) by amending or omitting any description contained in Column 2,
  - (d) by inserting in Column 2 of a Part a description of land, or
  - (e) by omitting from Column 1 a number and by inserting instead another number.
- (2) The Governor may, by order published in the Gazette, declare that a development corporation is constituted in respect of a growth centre specified in the order under the corporate name specified therein.
- (2A) A development corporation may be constituted in respect of a growth area within any area (including, but not limited to, an urban area or a rural area).
- (3) An order under subsection (1) or (2) takes effect on and from the date of publication of the order or a later date specified in the order.

## **6 Provisions relating to constitution and procedure of development corporation**

- (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.

(2) The Governor may appoint a person to be a member of a development corporation before the order made under section 5 (2) relating to the development corporation takes effect, but the term of office of any such member commences on the date on which the order takes effect or a later date specified in the order.

(3) Schedule 2 has effect in relation to each development corporation.

### **Part 3 Responsibilities, powers, authorities, duties and functions of development corporations**

#### **7 Responsibility etc of development corporation**

(1) Subject to this Act, a development corporation is charged with the responsibility of promoting, co-ordinating, managing and securing the orderly and economic development of the growth centre in respect of which it was constituted.

(2) Without affecting the generality of subsection (1), a development corporation shall have and may exercise and discharge the following powers, authorities, duties and functions:

(a) to submit to the Minister such proposals with respect to the development and use of land within the growth centre in respect of which it was constituted, or the planning of the development and use of that land, as it considers necessary or appropriate, including proposals for the development and use of land in conjunction with the provision of utility services and public transport facilities for or in connection with the growth centre,

(b) to consider, and furnish reports to and advise and make recommendations to the Minister upon, any matter or proposal with respect to the promotion, co-ordination and management of the growth centre, or the development and use, or the planning of the development and use, of land within the growth centre, which may be referred to it by the Minister,

(c) to carry out research into problems with respect to the promotion, co-ordination and management of the growth centre, or the development and use, or the planning of the development and use, of land within the growth centre, and prepare and issue memoranda, reports, bulletins, maps or plans relating thereto or any other material,

(d) to assist councils, which the development corporation considers may be affected, with respect to matters concerning the promotion, co-ordination and management



of the growth centre, or the development and use, or the planning of the development and use, of land within the growth centre,

- (e) to exercise and discharge such other powers, authorities, duties and functions as are conferred or imposed on it by or under this or any other Act, and
- (f) to do such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise or discharge of its responsibilities, powers, authorities, duties and functions.

## **8 General powers of development corporation**

- (1) Subject to this Act, the *Environmental Planning and Assessment Act 1979* and any other relevant Act a development corporation may, for the purposes of this Act:
  - (a) manage land vested in the development corporation,
  - (b) cause surveys to be made, and plans of survey to be prepared, in relation to any land vested in the development corporation,
  - (c) (Repealed)
  - (d) demolish, or cause to be demolished, any building within or adjoining or in the vicinity of the growth centre of which it has exclusive possession,
  - (e) provide, or arrange, on such terms and conditions as may be agreed upon, for the location or relocation of, utility services within or adjoining or in the vicinity of the growth centre,
  - (f) set apart land as sites for buildings or works or for religious, charitable or municipal purposes,
  - (g) subdivide and re-subdivide land, and consolidate subdivided or re-subdivided land, vested in the development corporation,
  - (h) set out and construct roads on land vested in the development corporation,
  - (i) erect, alter, repair and renovate buildings on and make other improvements to land vested in the development corporation, or on any other land with the consent of the person in whom it is vested, and
  - (j) cause any work to be done on or in relation to any land vested in the development corporation, or any other land with the consent of the person in whom it is vested, for the purpose of rendering it fit to be used for any purpose for which it may be used under any environmental planning instrument applying to the land.
- (2) (Repealed)

## **9 Power to acquire land etc**

- (1) A development corporation may, for the purposes of this Act, acquire land by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
- (2) Without limiting the generality of subsection (1), a development corporation may, in accordance with that subsection, acquire:
  - (a) any land within the growth centre in respect of which the development corporation was constituted which the corporation considers should be made available in the public interest or any purpose of the growth centre, or
  - (b) any land of which the land proposed to be acquired under this Act forms part, or
  - (c) any land adjoining or in the vicinity of any land proposed to be acquired under this Act, or
  - (d) a leasehold or any other interest in land.

## **10 Application of Public Works Act 1912**

- (1) For the purposes of the *Public Works Act 1912*, any acquisition of land under section 9 is taken to be for an authorised work and the development corporation is, in relation to that authorised work, taken to be the Constructing Authority.
- (2) Sections 34, 35, 36 and 37 of the *Public Works Act 1912* do not apply in respect of works constructed under this Act.

## **11 Disposal of land**

- (1) A development corporation may, with the approval of the Minister and subject to such terms and conditions as the Minister may attach to the approval, sell, lease, exchange or otherwise deal with or dispose of land vested in the development corporation, and may, with the like approval and subject to the like terms and conditions, grant easements or rights-of-way over that land or any part thereof.
- (2) Notwithstanding subsection (1), the approval of the Minister shall not be required for a lease of land by the development corporation for a term which is less than three years.

## **12 Dedication of land**

- (1) A development corporation may, by notification published in the Gazette, declare that it proposes to surrender to Her Majesty land described or referred to in the notification to be dedicated for any public purpose specified in the notification or, if so specified in the notification, as a public road.
- (2) When land described or referred to in a notification published in accordance with

subsection (1) is surrendered, the land:

(a) becomes Crown land reserved from sale, lease or licence under the *Crown Lands Act 1989*, and

(b) on revocation of the reservation, may be dedicated under that Act for the public purpose specified in the notification or under section 12 of the *Roads Act 1993* as a public road, as the case requires.

(3) A development corporation may, in a notification published pursuant to subsection (1), limit the description of, or reference to, land to a specified depth below the surface thereof and, where such a description or reference is so limited, subsection (2) does not apply to or in respect of land below the depth so specified.

### **13 Covenants in leases**

(1) Subject to this section, where the lease of a building site contains a covenant on the part of the lessee not to commence the erection of a building on the building site, or any work preparatory or incidental thereto, without the written consent of a development corporation:

(a) the development corporation may give its consent upon the application of a person entitled to apply to a council for its approval to the erection of a building on the building site, and

(b) the development corporation may impose conditions in giving its consent.

(2) A development corporation shall not give a consent pursuant to subsection (1) unless:

(a) the application therefor is accompanied by such plans and specifications of the building in respect of which the consent is sought, and such other information in respect of that building, as may be prescribed or as the development corporation may require, and

(b) the application therefor and the accompanying plans and specifications and other information disclose that the building in all respects will be in conformity with the planning scheme or interim development order that applies to or in respect of the building and with the approved scheme applicable to the growth centre in respect of which the development corporation was constituted, as to:

(i) the use to which the building will be put,

(ii) the height and general external design and appearance of the building,

(iii) the area of the building site to be covered by the building, and

(iv) the situation of the building in relation to the boundaries of the building site.

(3) (Repealed)

#### **14 Submission of scheme**

A development corporation shall, as soon as practicable after it is constituted, submit to the Minister proposals referred to in section 7 (2) (a).

#### **15 Approved scheme**

- (1) The Minister shall consider the proposals so submitted and may then direct the development corporation:
  - (a) to proceed with the scheme constituted by the proposals,
  - (b) to proceed with that scheme with such alterations as the Minister deems expedient and notifies in writing to the development corporation, or
  - (c) not to proceed with that scheme, but to submit another scheme for the Minister's consideration.
- (2) If, pursuant to subsection (1) (c), the Minister directs the development corporation to submit another scheme, the development corporation shall comply with the direction within such period as the Minister may allow, and subsection (1) applies to and in respect of that other scheme as if it were the original scheme.
- (3) Where the Minister gives a direction under subsection (1) (a) or (b), the scheme in respect of which the direction is given shall constitute the approved scheme for the growth centre to which it relates for the purposes of this Act.

#### **16 Variation of approved scheme**

- (1) A development corporation may recommend to the Minister that the approved scheme for the growth centre in respect of which the development corporation was constituted be varied in the manner specified in the recommendation.
- (2) The Minister shall consider any such recommendation and may then direct the development corporation:
  - (a) to vary the approved scheme as recommended by the development corporation,
  - (b) to vary the approved scheme with such alterations, arising out of the Minister's consideration of the development corporation's recommendation, as the Minister deems expedient and notifies in writing to the development corporation, or
  - (c) not to vary the approved scheme.
- (3) Where the Minister gives a direction pursuant to subsection (2) (a) or (b), the approved scheme, as varied in accordance with the direction, shall be the approved scheme for the purposes of this Act.

## **17 Implementation of approved scheme**

The development corporation constituted in respect of a growth centre to which an approved scheme relates shall, as soon as practicable, cause the scheme to be implemented by the exercise of its powers under this Act.

## **18 Development corporation may enter into contracts**

- (1) A development corporation may make and enter into contracts with any person for the carrying out of works or the performance of services or the supply of goods or materials in connection with the exercise or discharge by the development corporation of its responsibilities, powers, authorities, duties and functions.
- (2) A contract under subsection (1) may provide for:
  - (a) the whole or part of any works to be undertaken by the development corporation,
  - (b) the whole or any part of the cost of any works to be paid by the development corporation,
  - (c) a loan to be made by the development corporation to meet the whole or any part of the cost of any works, or
  - (d) the development corporation to pay the costs of providing any services during a specified period.
- (3) A development corporation may enter into a contract with any person for the construction on land vested in the development corporation or that person, or in the development corporation and that person, of buildings suitable for occupation, or works, for the purposes of the growth centre in respect of which the development corporation was constituted, and the sale, lease or exchange of any such land together with the buildings or works thereon.
- (4) A contract under this section shall be deemed for the purposes of the [Constitution Act 1902](#) to be a contract for or on account of the Public Service of New South Wales.

## **19 Development corporation may enter into arrangement with other public authorities**

- (1) A development corporation may enter into an arrangement or agreement with any public authority whereby:
  - (a) that public authority shall act as agent of the development corporation for the purposes of this Act, or
  - (b) the development corporation shall act as agent of that public authority for the purposes of this Act,on such terms and conditions as are agreed upon between the development corporation and the public authority.

(2) (Repealed)

## **20 (Repealed)**

### **21 Arrangements as to use of officers or facilities by development corporation**

- (1) For the purpose of exercising and discharging its responsibilities, powers, authorities, duties and functions, a development corporation may, with the approval of the Minister and of the Department concerned and on such terms as may be arranged, make use of the services of any officers or employees or the facilities of any Government Department.
- (2) For the like purpose, a development corporation may, with the approval of the Minister and of the public authority concerned, and on such terms as may be arranged, make use of the services of any officers, employees or servants or the facilities of any public authority.

### **22 Consultation and negotiation**

In the exercise and discharge of its responsibilities, powers, authorities, duties and functions, a development corporation shall, as far as practicable:

- (a) consult with public authorities and Government Departments whose responsibilities, powers, authorities, duties and functions include those of the same or of a similar nature, and
- (b) negotiate with any such authorities and Departments for the purpose of arranging or providing services and facilities in the growth centre in respect of which the development corporation was constituted.

### **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.

## Part 3A Dissolution of development corporations

### Division 1 Definitions

#### 23A Definitions

In this Part:

**assets** means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents.

**dissolved development corporation** means a development corporation which is dissolved under this Part.

**instrument** means an instrument (other than this Act) which creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order and process of a court.

**liabilities** means all liabilities, debts and obligations (whether present or future and whether vested or contingent).

### Division 2 Dissolution of development corporations

#### 23B Dissolution of Bathurst-Orange and Macarthur Development Corporations

The Bathurst-Orange Development Corporation and the Macarthur Development Corporation are dissolved.

#### 23C Governor may dissolve development corporations

- (1) The Governor may, on the recommendation of the Minister, by order published in the Gazette:

- (a) dissolve a development corporation, and
  - (b) amend Schedule 1 by omitting any Part which relates to the dissolved development corporation.
- (2) Any such order takes effect on and from the date of publication of the order or a later date specified in the order.
- (3) The Minister is not to make such a recommendation to the Governor unless the Minister is satisfied that the development corporation concerned has substantially completed its planning and development functions in respect of the growth centre for which it was constituted.
- (4) Nothing in this section affects section 5.

**23D Transfer of assets etc**

- (1) On the commencement of section 23B or on an order under section 23C taking effect, the assets, rights and liabilities (if any) of the dissolved development corporation are transferred to the Ministerial Development Corporation.
- (2) On such a transfer, the following provisions have effect:
- (a) the assets of the dissolved development corporation vest in the Ministerial Development Corporation by virtue of this section and without the need for any conveyance, transfer, assignment or assurance,
  - (b) the rights and liabilities of the dissolved development corporation become by virtue of this section the rights and liabilities of the Ministerial Development Corporation,
  - (c) all proceedings commenced before the transfer by or against the dissolved development corporation and pending immediately before the transfer are taken to be proceedings pending by or against the Ministerial Development Corporation,
  - (d) any act, matter or thing done or omitted to be done before the transfer by, to or in respect of the dissolved development corporation is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Ministerial Development Corporation,
  - (e) a reference in an instrument of any kind to the dissolved development corporation is to be read as a reference to the Ministerial Development Corporation.
- (3) The operation of this section is not to be regarded:
- (a) as a breach of contract or confidence or otherwise as a civil wrong, or
  - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or



- (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (4) The operation of this section is not to be regarded as an event of default under any contract or other agreement.
- (5) No attornment to the Ministerial Development Corporation by a lessee from the dissolved development corporation is required.
- (6) Any instrument executed only for:
  - (a) a purpose ancillary to or consequential on the operation of this section, or
  - (b) the purpose of giving effect to this section,is not chargeable with stamp duty.

### **Division 3 Establishment of Ministerial Development Corporation**

#### **23E Establishment of Ministerial Development Corporation**

- (1) There is constituted by this Act a body corporate with the corporate name of the Ministerial Development Corporation.
- (2) The affairs of the Ministerial Development Corporation are to be managed by the Minister.
- (3) Any act, matter or thing done in the name of, or on behalf of, the Ministerial Development Corporation by the Minister, or with the authority of the Minister, is taken to have been done by the Ministerial Development Corporation.

#### **23F Functions of Ministerial Development Corporation**

- (1) The Ministerial Development Corporation is responsible for the management and disposal of the remaining assets, rights and liabilities of a dissolved development corporation.
- (2) Without limiting the generality of subsection (1), the Ministerial Development Corporation, for the purposes of that subsection:
  - (a) has, in relation to the assets, rights and liabilities of the dissolved development corporation that are transferred to it, the same powers, authorities and functions of that development corporation under sections 8-13, 18, 19 and 21, and
  - (b) may, with the concurrence of the Treasurer, transfer any of its assets, rights and liabilities to the Crown or to any other person on behalf of the Crown.
- (3) The Ministerial Development Corporation has such other functions as may be

conferred or imposed on it by or under this or any other Act.

## **Part 4 Finance**

### **24 Financial year of a corporation**

The financial year of a corporation shall be:

- (a) where no period is prescribed as referred to in paragraph (b)—the year commencing on 1 July, or
- (b) the period prescribed for the purposes of this section.

### **25, 26 (Repealed)**

### **27 Investments**

A corporation may invest money held by it:

- (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 to invest money so held, in any manner authorised for the time being for the investment of trust funds and in any other manner approved by the Minister with the concurrence of the Treasurer.

### **28-29A (Repealed)**

## **Part 5 General**

### **30 Powers of public authorities**

Notwithstanding anything in any other Act, any public authority is hereby authorised and empowered to enter into agreements for the purposes of this Act with a corporation and may do or suffer anything necessary or expedient for carrying any such agreement into effect.

### **31 (Repealed)**

### **32 Disputes**

- (1) In this section, **corporation** does not include the Ministerial Development Corporation.
- (2) If any difference, whether arising out of the construction of this Act or not, arises between a corporation and a council, with respect to the carrying out of the provisions of this Act or with respect to the fulfilment and exercise of the corporation's responsibilities, powers, authorities, duties, functions or privileges, the corporation or the council may submit the difference to the Minister, who may refer the matter for inquiry to some person appointed by the Minister in that behalf, or may make his or

her own inquiry.

- (3) The Minister, after consultation with the Minister for Local Government, may thereupon make such order as in the public interest and in the circumstances of the case may seem to the Minister just and equitable, and by the order may direct the payment of any costs and expenses incidental to the conduct of the inquiry.
- (4) Any such order may, upon the application of the Minister, the corporation or the council, by leave of the Supreme Court, be enforced in the same manner as a judgment or order of the Supreme Court to the same effect.
- (5) If any such difference arises between a corporation and a Government Department, the parties to the dispute may mutually agree to submit the matter in dispute to the Minister, and in any such case the provisions of this section shall apply to the settlement of the dispute as if the dispute were between a corporation and a council.

### **32A Staff**

A corporation cannot employ any staff.

**Note—**

Staff may be employed under Chapter 1A of the [Public Sector Employment and Management Act 2002](#) in the Government Service to enable a corporation to exercise its functions.

### **33 Misuse of information**

- (1) Where, through association with a corporation, a person has knowledge of specific information relating to proposals made, or to be made, by the corporation in respect of the use and development of land and that information is not generally known but, if generally known, might reasonably be expected to affect materially the market price of that land, the person is guilty of an offence against this Act if the person:
  - (a) deals, directly or indirectly, in that land for the purpose of gaining an advantage for himself or herself by the use of that information, or
  - (b) divulges that information for the purpose of enabling another person to gain an advantage by using that information to deal, directly or indirectly, in that land,and is liable to a penalty not exceeding 20 penalty units.
- (2) Where, through association with a corporation, a person is in a position to influence proposals made, or to be made, by the Corporation in respect of the use and development of land and does influence the proposals by securing the inclusion or alteration of any matter in, or the exclusion or omission of any matter from, the proposals, the person is guilty of an offence against this Act if:
  - (a) the person does so for the purpose of gaining an advantage for himself or herself,or

(b) the person does so for the purpose of enabling another person to gain an advantage,

and is liable to a penalty not exceeding 20 penalty units.

(3) Where:

(a) an offence under subsection (1) is committed and an advantage, referred to in that subsection, is gained from any dealing in land to which the offence relates, or

(b) an offence under subsection (2) is committed and an advantage, referred to in that subsection, is gained from any dealing in land which would not have been gained if the proposals concerned had not been influenced,

any person who gained that advantage is, whether or not any person has been prosecuted for or convicted of an offence under subsection (1) or (2), as the case may be, liable to another person for the amount of any loss incurred by that other person by reason of the gaining of that advantage.

(4) Where a loss referred to in subsection (3) is incurred by reason of an advantage gained from a dealing in land, the amount of the loss is the difference between the price at which the dealing was effected and:

(a) in the case of any dealing to which subsection (1) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would have been the market price of the land at the time of the dealing if the specific information used to gain that advantage had been generally known at that time, or

(b) in any case to which subsection (2) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would have been the market price of the land at the time of the dealing if the proposals concerned had not been influenced.

(5) An action to recover a loss or profit, referred to in subsection (3), may not be brought after the expiration of five years next succeeding the dealing in land to which the transaction relates.

(6) For the purposes of this section, a person is associated with a corporation:

(a) in the case of a development corporation—if the person is a member or officer or employee of the development corporation or a person appointed to a committee or a sub-committee of the development corporation,

(ai) (Repealed)

(b) if the person is a member of staff of the Department of Urban Affairs and Planning,

- (c) (Repealed)
- (d) if the person is an officer or servant of a council,
- (e) if the person acts or has acted as banker, solicitor, auditor or professional adviser or in any other capacity for the corporation, the Department of Urban Affairs and Planning or a council, or
- (f) where the person, so associated by virtue of paragraph (e), is a body corporate, if the person is a director, manager or secretary of that body corporate.

### **34 Disclosure of interest**

- (1) If a member of a development corporation, or a member of a committee or a sub-committee of a development corporation has an interest, directly or indirectly, in land, proposals in respect of the development or use of which are to be considered by the corporation, the committee or the sub-committee, as the case may be, or has a pecuniary interest, direct or indirect, in a contract or proposed contract with the corporation or in any other matter in which the corporation is concerned and is present at a meeting of the corporation, the committee or the sub-committee, as the case may be, at which the proposals are or the contract, proposed contract or other matter is the subject of consideration, the member shall, at the meeting, as soon as practicable after the commencement thereof, disclose his or her interest and shall not take part in the consideration or discussion of or vote on any question with respect to the proposals or the contract, proposed contract or other matter.
- (2) For the purposes of this section, a person shall be treated as having an indirect interest in land or a contract, proposed contract or other matter if:
  - (a) the person or any nominee of the person is a member of a company or other body which has an interest in the land, or with which the contract is made or is proposed to be made or which has a direct or indirect pecuniary interest in the other matter under consideration, or
  - (b) the person is a partner, or is in the employment of, a person who has an interest in the land, or with whom the contract is made or is proposed to be made or who has a direct or indirect pecuniary interest in the other matter under consideration.
- (3) Notwithstanding subsection (2):
  - (a) that subsection does not apply to membership of or employment under any council or statutory body,
  - (b) a member of a company or other body shall not, by reason only of the person's membership, be treated as being so interested if the person has no beneficial interest in any shares of that company or other body, and
  - (c) a member of a company having not less than twenty-five members shall not be

treated as having an interest in land or in any contract or proposed contract with the corporation or in any other matter in which the corporation is concerned by reason only that the company has an interest in the land or the contract or proposed contract is with or the other matter concerns the company.

- (4) In the case of a married couple who are living together, the interest of one spouse shall, if known to the other, be deemed, for the purposes of this section, to be also an interest of the other spouse.
- (5) A general notice in writing to the secretary or the prescribed officer of the development corporation by a member, or a member of a committee or a sub-committee, of a development corporation to the effect that the member or the member's spouse is a member, or is in the employment of a specified company or other body, or that the member or the member's spouse is a partner or in the employment of a specified person shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of the member's interest in any land in which that company or other body has an interest or in any contract, proposed contract or other matter relating to that company or other body or to that person which may be the subject of consideration after the date of the notice.
- (6) The Secretary or officer referred to in subsection (5) shall record in a book to be kept for the purpose particulars of any disclosure made under subsection (1) and of any notice given under subsection (5) and the book shall be open at all reasonable hours to the inspection of any person on payment of such fees as may be determined by the development corporation from time to time.
- (7) Subject to subsection (8), if any person fails to comply with the provisions of subsection (1), the person is guilty of an offence against this Act and liable to a penalty not exceeding 4 penalty units, unless the person proves that the person did not know that proposals in respect of the development and use of the land in which the person had an interest were, or that the person did not know that a contract, proposed contract or other matter in which the person had a pecuniary interest was, the subject of consideration at the meeting.
- (8) The Minister may, subject to such conditions as the Minister thinks fit to impose, remove any disability imposed by subsection (1) in any case in which the number of members referred to in subsection (1) so disabled at any one time would be so great a proportion of the whole of the members of the development corporation or a committee or sub-committee of a development corporation as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the public interest that the disability should be removed.
- (9) The development corporation or a committee or sub-committee of a development corporation may, by resolution, provide for the exclusion of any member thereof from a meeting of the development corporation, committee or sub-committee, as the case

may be, while any proposal, in respect of any land or any contract, proposed contract or other matter in which that person has an interest as referred to in this section is under consideration.

- (10) In this section, **shares** includes stock.
- (11) The provisions of this section apply to a member of a council in relation to an interest in land that is within a growth centre and held by the member, directly or indirectly, proposals in respect of the development and use of which are to be considered by the council at a meeting of the council in the same way as they apply to a member of a development corporation having an interest, directly or indirectly, in land proposals in respect of the development and use of which are to be considered by the development corporation at a meeting of the development corporation.
- (12) (Repealed)

### **35 Proceedings at meetings confidential**

A person shall not, unless the development corporation otherwise determines, disclose any information with respect to the business discussed at any meeting of a development corporation.

Maximum penalty: 20 penalty units.

### **35A Proceedings at committee meetings confidential**

A person shall not, unless the corporation otherwise determines, disclose any information with respect to the business of a corporation discussed at any meeting of a committee or of a sub-committee of the corporation.

Maximum penalty: 20 penalty units.

### **36 Delegation**

- (1) A corporation may, by instrument in writing under seal, delegate to a member or officer or employee of the corporation, or to an officer, employee or servant of a Government Department or public authority whose services are being used by the corporation pursuant to section 21, the exercise or performance of such of the corporation's responsibilities, powers (other than this power of delegation), authorities, duties and functions as may be specified in the instrument of delegation, and may, by such an instrument, revoke wholly or in part any such delegation.
- (2) A responsibility, power, authority, duty or function, the exercise or performance of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation.
- (3) A delegation under this section may be made subject to such conditions or such

limitations as to the exercise or performance of any of the responsibilities, powers, authorities, duties or functions delegated, or as to time or circumstance, as may be specified in the instrument of delegation.

- (4) Notwithstanding any delegation under this section, the corporation may continue to exercise or perform all or any of the responsibilities, powers, authorities, duties or functions delegated.
- (5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the corporation and shall be deemed to have been done or suffered by the corporation.
- (6) An instrument purporting to be signed by a delegate of the corporation in his or her capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the corporation under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the corporation under this section.

### **37 (Repealed)**

### **38 Service of process**

Any notice, summons, writ or other proceeding to be served on a corporation may be served:

- (a) by being left, or
  - (b) in the case of a notice, by posting it addressed to the corporation,
- at its office or, if it has more than one office, at one of its offices.

### **39 (Repealed)**

### **40 Penalties**

- (1) Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a Local Court.
- (2) Where the penalty is a daily penalty it may be recovered either under a separate information or complaint for each day or under an information or complaint for the sum of the daily penalties.

### **41 Recovery of money**

Any charge, fee or money due to a corporation may be recovered as a debt or liquidated demand in a court of competent jurisdiction.



## 42 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to:
  - (a) forms including forms of lease for use for the purposes of this Act, and
  - (b) the payment of fees and travelling and out-of-pocket expenses to members of committees or sub-committees of a corporation for attending meetings, transacting business of the committees or sub-committees and making inspections for the purposes of this Act.
- (2) Regulations may be made so as to apply differently according to such factors as may be specified in the regulations.
- (3) A regulation may:
  - (a) impose a penalty for any breach thereof and also distinct penalties in case of successive breaches thereof but no such penalty shall exceed 1 penalty unit, and
  - (b) impose also a daily penalty for any continuing breach thereof not exceeding 0.1 penalty unit per day.

## 43 Savings, transitional and other provisions

Schedule 6 has effect.

## Schedule 1 Growth centres

(Sections 3 and 5)

<b>Column 1</b>	<b>Column 2</b>
<b>No of Part</b>	<b>Description</b>
1	(Repealed)
2	All those pieces or parcels of land within the City of Newcastle as shown coloured yellow on the map entitled "Honeysuckle Growth Centre Order 2002", a copy of which is deposited in the offices of the Honeysuckle Development Corporation.
3-6	(Repealed)

ALL THOSE pieces or parcels of land within the local government area of the City of Gosford being land generally bounded by:

- (a) the Pacific Highway in the east and south, and
- (b) Kangoo Road in the west and north,

7 as shown by thick black edging on the map entitled "Festival Development Corporation", copies of which are deposited at the Department of Urban Affairs and Planning (the **map**), but excluding:

- (c) the residential area at Kariong off Old Mt Penang Road, and
- (d) the area designated for occupation by the Department of Juvenile Justice, and
- (e) the public reserve between Kangoo Road and the Pacific Highway in the north-east, as shown on the map.

8 All those pieces or parcels of land in the Parish of St George, County of Cumberland, as shown by yellow colouring of the map entitled "Cooks Cove Development Corporation", copies of which are deposited in the offices of the Sydney Harbour Foreshore Authority.

9 All those pieces or parcels of land shown edged heavy red on the map entitled "North West Growth Centre" and the map entitled "South West Growth Centre", copies of which are deposited in the offices of the Department of Infrastructure, Planning and Natural Resources.

## **Schedule 1A (Repealed)**

## **Schedule 2 Provisions relating to the constitution and procedure of development corporations**

(Section 6)

### **1 Chairperson**

- (1) One of the appointed members shall, by the instrument of the member's appointment or by a subsequent instrument executed by the Governor, be appointed as Chairperson of the development corporation to hold office during the member's term of office as a member.

- (2) (Repealed)

### **2 (Repealed)**

### **3 Term of office**

- (1) A member who, by the instrument of the member's appointment, is also appointed as Chairperson shall, subject to this Act, be appointed for such term, not exceeding 5 years, as may be specified in the instrument of the member's appointment.
- (2) A member (not being a member referred to in subclause (1) or the Director-General) shall, subject to this Act, be appointed for such term, not exceeding 3 years, as may

be specified in the instrument of the member's appointment.

- (3) A member, upon the effluxion of the period of time fixed in the instrument of appointment in accordance with the preceding provisions of this clause, if otherwise qualified, shall be eligible for reappointment from time to time.
- (4) Any such reappointment shall be for such term, in accordance with subclause (1) or (2), as the case may be, as may be specified in the instrument of reappointment.

#### **4 Remuneration of members**

- (1), (1A) (Repealed)
- (2) Each member (other than the Director-General) shall receive such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.
- (3) Where, by or under any Act, provision is made requiring the holder of an office specified therein to devote the whole of the holder's time to the duties of the holder's office, or prohibiting the holder from engaging in employment outside the duties of the holder's office, that provision shall not operate to disqualify the holder from holding that office and also the office of a member under this Act or from accepting and retaining any remuneration or allowances payable to a member under this clause.
- (4) The office of a member shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

#### **5 Public Sector Management Act 1988 not to apply**

The provisions of Part 2 of the *Public Sector Management Act 1988* shall not apply to or in respect of the appointment of a member (other than the Director-General) and a member (other than the Director-General) shall not, in the member's capacity as a member, be subject to the provisions of that Act during the member's term of office.

#### **6 Vacation of office**

- (1) An appointed member shall be deemed to have vacated office:
  - (a) if the member dies,
  - (b) (Repealed)
  - (c) if the member 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, allowances or estate for their benefit,
  - (d) if, being the Chairperson, the member is absent from 2 consecutive ordinary meetings of the development corporation of which reasonable notice has been

given, either personally or in the course of post, unless on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for his or her absence from those meetings,

- (e) if, being an appointed member other than the Chairperson, the member is absent from four consecutive ordinary meetings of the development corporation of which reasonable notice has been given, either personally or in the course of post, unless on leave granted by the Minister or, unless, before the expiration of four weeks after the last of those meetings, the member is excused by the Minister for his or her absence from those meetings,
  - (f) if the member becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the *Mental Health Act 1958* or a person under detention under Part 7 of that Act,
  - (g) if he or she is convicted in New South Wales of an indictable 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,
  - (h) if the member resigns office by writing under the member's hand addressed to the Governor,
  - (i) if the member declines office, or
  - (j) if the member is removed from office by the Governor.
  - (k) (Repealed)
- (2) The Governor may, for any cause which appears to the Governor to be sufficient, remove any appointed member from office.
- (3)-(6) (Repealed)

## **7 Filling of vacancies**

- (1) On the occurrence of a vacancy in the office of a member (other than the Director-General), the Governor may appoint a person to hold that office for the balance of his or her predecessor's term of office.
- (2) (Repealed)

## **8 (Repealed)**

## **9 Quorum**

- (1) Subject to subclause (2), the number of members which shall constitute a quorum at

any meeting of the development corporation shall:

- (a) where the development corporation consists of an even number of members—be one-half of that number, and
  - (b) in any other case—be one-half of the even number next above the number of members of the development corporation.
- (2) One of the members referred to in subclause (1) shall be the Chairperson or, in the Chairperson's absence, the chief executive.

## **10 Meetings**

- (1) Any duly convened meeting of the development corporation at which a quorum is present shall be competent to transact any business of the development corporation.
- (2) Questions arising at a meeting of the development corporation shall be determined by a majority of votes of the members present and voting.
- (3) The Chairperson shall preside at all meetings of the development corporation at which the Chairperson is present.
- (4) If the Chairperson is not present at a meeting of the development corporation, the members present shall elect one of their number, not being the chief executive, to preside at the meeting.
- (5) The person presiding at a meeting of the development corporation has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

## **11 Minutes**

The development corporation shall cause full and accurate minutes to be kept of its proceedings at meetings and submit to the Minister a copy of the minutes of each meeting within one week after the date on which the meeting is held.

## **12 Committees and sub-committees**

- (1) The development corporation may establish committees for the purposes of advising the development corporation upon such matters within the scope of the development corporation's responsibilities, powers, authorities, duties and functions as may be referred to the committees by the development corporation.
- (2) The development corporation, or a committee referred to in subclause (1), with the approval of the development corporation, may establish sub-committees for the purposes of advising the committee upon such matters within the scope of the committee's responsibilities, powers, authorities, duties and functions as may be referred to the sub-committees by the development corporation or by such a committee with the approval of the development corporation.

- (3) A person may be appointed to any such committee or sub-committee whether or not the person is a member of the development corporation.
- (4) The office of member of any such committee or sub-committee shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

### **13 General procedure**

Subject to this Act and any regulations in relation thereto, the procedure for the calling of, and for the conduct of business at, meetings of the development corporation shall be as determined by the development corporation.

### **14 Protection from liability**

- (1) No matter or thing done, and no contract entered into, by the development corporation, and no matter or thing done by a member or by any other person acting under the direction or as delegate of the development corporation shall, if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act or any other Act conferring or imposing responsibilities, powers, authorities, duties or functions on the development corporation, subject the member or person so acting personally to any action, liability, claim or demand.
- (2) Nothing in subclause (1) exempts any member or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of or relating to the development corporation, and which the member or other person authorised or joined in authorising.

### **15-18 (Repealed)**

### **19 Presumptions**

In any proceedings by or against the development corporation no proof shall be required (until evidence is given to the contrary) of:

- (a) the constitution of the development corporation,
- (b) any resolution of the development corporation,
- (c) the appointment of any member, or
- (d) the presence of a quorum at any meeting of the development corporation.

## Schedules 3-5 (Repealed)

### Schedule 6 Savings, transitional and other provisions

(Section 43)

#### 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.

#### 2 Change of name of corporation sole

- (1) The Macarthur Development Corporation is a continuation of, and the same legal entity as, the corporation sole with the corporate name "Director, Macarthur Growth Area".
- (2) (Repealed)

#### 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

- (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.