

Growth Centres (Development Corporations) Act 1974 No 49

[1974-49]



New South Wales

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Provisions in force

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

Notes—

- **Does not include amendments by**

Environmental Planning and Assessment Amendment Act 2008 No 36 (amended by *Statute Law (Miscellaneous Provisions) Act (No 2) 2008 No 114* and *State Revenue and Other Legislation Amendment (Budget Measures) Act 2008 No 122* and *Statute Law (Miscellaneous Provisions) Act (No 2) 2009 No 106*) (not commenced)

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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2 (Repealed)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.

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

board governed development corporation means a development corporation that, as specified in Schedule 1, is governed by a board.

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 board governed development corporation, means the chairperson of the board of the development corporation.

chief executive means the chief executive of a development corporation within the

meaning of section 6B.

chief executive governed development corporation means a development corporation that, as specified in Schedule 1, is governed by a chief executive.

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](#).

exercise a function includes perform a duty.

function includes a power, authority or duty.

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

liabilities means any liabilities, debts or obligations (whether present or future, whether vested or contingent and whether personal or assignable).

member, in relation to a board governed development corporation, means a member of the board 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.

rights means any rights, powers, privileges or immunities (whether present or future, whether vested or contingent and whether personal or assignable).

- (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 is constituted, or

(b) (Repealed)

(3) Notes included in this Act do not form part of this Act.

Part 2 Constitution of development corporations

Division 1 General

4 Constitution of development corporations and growth centres

(1) There are constituted by this Act such development corporations as are specified from time to time in Schedule 1.

(2) A development corporation is a body corporate with the corporate name specified in column 1 of Schedule 1.

(3) The growth centre in respect of which a development corporation is constituted is the area of land described in any manner (including by reference to a description contained in another document) in column 2 of Schedule 1 in relation to the development corporation.

(4) A development corporation is to be either a chief executive governed development corporation or a board governed development corporation, as specified from time to time in column 3 of Schedule 1.

(5) A development corporation is a NSW Government agency.

5 Amendment of Schedule 1 (Growth centres and development corporations)

(1) The Governor may, by order published on the NSW legislation website:

(a) constitute a development corporation by inserting the name of a development corporation into column 1 of Schedule 1 and inserting the nature of governance of the development corporation (either “Board” or “Chief executive”) into column 3 of Schedule 1, or

(b) dissolve a development corporation by omitting the matter relating to the development corporation from Schedule 1, or

(c) change the name of a development corporation by amending the name of the development corporation in column 1 of Schedule 1, or

(d) establish a growth centre by inserting a description of land in column 2 of

Schedule 1, or

- (e) abolish a growth centre by omitting the description of land of the growth centre from column 2 of Schedule 1, or
 - (f) alter a growth centre by amending the description of land of the growth centre in column 2 of Schedule 1, or
 - (g) change the nature of governance of a development corporation:
 - (i) from board governed to chief executive governed by omitting the word “Board” from column 3 of Schedule 1 and inserting instead the words “Chief executive”, or
 - (ii) from chief executive governed to board governed by omitting the words “Chief executive” from column 3 of Schedule 1 and inserting instead the word “Board”, or
 - (h) amalgamate 2 or more development corporations by omitting all the matter relating to the development corporations to be amalgamated from Schedule 1 and inserting instead:
 - (i) in column 1 of that Schedule, the name of the amalgamated development corporation, and
 - (ii) in column 2 of that Schedule, a description of the growth centre in respect of which the amalgamated development corporation is constituted, and
 - (iii) in column 3 of that Schedule, the nature of governance of the amalgamated development corporation (either “Board” or “Chief executive”).
- (2) A development corporation may be constituted in respect of a growth centre within any area (including, but not limited to, an urban area or a rural area).
- (3) Schedule 1A has effect with respect to orders made under this section.
- (4) An order under this section may contain provisions, not inconsistent with the provisions of or made under Schedule 1A, of a savings and transitional nature consequent on the making of the order.
- (5) The Governor may only make an order under subsection (1) (b) to dissolve a development corporation on the recommendation of the Minister.
- (6) (Repealed)
- (7) An order under this section must specify the date (being a date that is on or after the date it is published on the NSW legislation website) on which it takes effect. However, if no date is specified in the order, the order is taken to have specified the date on

which it is published on the NSW legislation website as the date on which it takes effect.

Division 2 Constitution and procedure of development corporations

6 Governance of development corporation

- (1) The affairs of a development corporation are to be managed and controlled by:
 - (a) if the development corporation is a chief executive governed development corporation—the chief executive of the development corporation, or
 - (b) if the development corporation is a board governed development corporation—the chief executive, subject to and in accordance with any directions given to the chief executive by the board of the development corporation.
- (2) In the exercise of its functions, a development corporation is, except where it makes a recommendation to the Minister, subject to the control and direction of the Minister.

6A Development corporation boards

- (1) There is constituted a development corporation board for each board governed development corporation.
- (2) A development corporation board is to be called the “[*name of board governed development corporation*] Board”.
- (3) A board of a development corporation is to consist of:
 - (a) not less than 4 persons appointed by the Governor, and
 - (b) the chief executive, and
 - (c) if a person is appointed as the chief executive under section 6B—the Director-General (or a person nominated by the Director-General).
- (4) The Governor may appoint a person to be a member of the board of a development corporation before the order made under section 5 (1) (a) 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.
- (5) Schedule 2 has effect in relation to board governed development corporations.

6B Chief executives of development corporations

- (1) The Minister is to appoint a chief executive for each development corporation.
- (2) If from time to time a vacancy exists in the office of a chief executive of a development corporation, the Director-General is to act in that position and while acting is taken to be the chief executive of the development corporation.

- (3) If the development corporation is a board governed development corporation, the chief executive may be represented at any meeting of the board by a person nominated for the time being by the chief executive. In representing the chief executive, the person nominated has and may exercise the same functions as the chief executive has at such a meeting (including voting rights), and is taken to be the chief executive.
- (4) If the development corporation is a chief executive governed development corporation:
 - (a) except when making a recommendation to the Minister, the chief executive is, in the exercise of his or her functions, subject to the control and direction of the Minister, and
 - (b) any act, matter or thing done in the name of, or on behalf of, the development corporation by the chief executive of that development corporation is taken to have been done by the development corporation.
- (5) The employment of a chief executive appointed by the Minister under subsection (1) is subject to Part 3.1 of the *Public Sector Employment and Management Act 2002*, but is not subject to Chapter 1A or 2 of that Act.

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 is 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 is 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 is constituted which the corporation considers should be made available in the public interest for 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 is 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 is 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 is 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 is 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 Establishment of Ministerial Development Corporation

23A-23D (Repealed)

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.
- (4) In this section, ***dissolved development corporation*** means a development corporation which is dissolved by an order under section 5 (1) (b).

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 of the board 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, Australian legal practitioner, 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 board of a development corporation, or a member of a committee or a sub-committee of such a board, has an interest, directly or indirectly, in land, proposals in respect of the development or use of which are to be considered by the board, committee or 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 board, committee or 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, or de facto partners who are living together, the interest of one spouse or de facto partner shall, if known to the other, be deemed, for the purposes of this section, to be also an interest of the other spouse or de facto partner.

Note—

“De facto partner” is defined in section 21C of the [Interpretation Act 1987](#).

(5) A general notice in writing to the secretary or the prescribed officer of the development corporation by a member of a board of a development corporation, or a member of a committee or a sub-committee of such a board, to the effect that the member or the member's spouse or de facto partner is a member, or is in the employment of a specified company or other body, or that the member or the member's spouse or de facto partner 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 board of a development corporation, or a committee or a sub-committee of such a board, 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 board of a development corporation, or a committee or a sub-committee of such a board, may, by resolution, provide for the exclusion of any member thereof from a meeting of the board, 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 board 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 board of the development corporation at a meeting.
- (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.

35B Protection from personal liability

Anything done or omitted to be done by:

- (a) a development corporation, or
- (b) a board of a development corporation, or
- (c) a chief executive of a development corporation, or
- (d) a member of a board of a development corporation, or
- (e) a person acting under the direction of a development corporation or a board of a development corporation, or
- (f) a person acting as a delegate of a development corporation,

if the thing was done or omitted to be done in good faith for the purpose of executing this or any other Act, does not subject the chief executive, the member of the board of the development corporation or the person so acting personally to any action, liability, claim or demand.

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 the 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 and development corporations

(Sections 4 and 5)

Column 1	Column 2	Column 3
Name of development corporation	Description of land of growth centre	Nature of governance
Hunter Development Corporation	All those pieces or parcels of land within the local government areas of Cessnock, Dungog, Gloucester, Great Lakes, Lake Macquarie, Maitland, Muswellbrook, Newcastle, Port Stephens, Singleton and Upper Hunter as at 1 January 2008.	Board
Central Coast Regional Development Corporation	All those pieces or parcels of land within the local government areas of Gosford and Wyong.	Board
Cooks Cove Development Corporation	All those pieces or parcels of land in the Parish of St George, County of Cumberland, as shown by yellow colouring on the map entitled "Cooks Cove Development Corporation", copies of which are deposited in the offices of the Sydney Harbour Foreshore Authority.	Chief executive

Sydney Metropolitan
Development Authority

The land identified as potential urban renewal precincts on the following maps under *State Environmental Planning Policy (Urban Renewal) 2010*:

(a) *State Environmental Planning Policy (Urban Renewal) 2010 Redfern-Waterloo Potential Precinct Map*, Board

(b) *State Environmental Planning Policy (Urban Renewal) 2010 Granville Potential Precinct Map*.

Schedule 1A Dissolutions, amalgamations and changes of name or nature of governance

(Section 5 (3))

Part 1 General

1 Definitions

In this Schedule:

instrument means an instrument (other than this Act) that 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 or process of a court.

transferee means the person or body to which any assets, rights or liabilities are transferred.

transferor means the person or body from which any assets, rights or liabilities are transferred.

2 Orders to which this Schedule applies

This Schedule applies to the following orders:

- (a) an order under section 5 (1) (b) dissolving a development corporation,
- (b) an order under section 5 (1) (c) changing the name of a development corporation,
- (c) an order under section 5 (1) (g) (i) changing the nature of governance of a development corporation from board governance to chief executive governance,
- (d) an order under section 5 (1) (h) amalgamating 2 or more development corporations.

3 Effect of orders

- (1) **Dissolution orders** On and from the date specified in an order made under section 5 (1) (b) dissolving a development corporation:
 - (a) the development corporation is dissolved, and
 - (b) the chief executive of the development corporation ceases to hold office, and
 - (c) in the case of a board governed development corporation, the members of the board (other than the chief executive) cease to hold office, but are not entitled to be paid any compensation by reason of ceasing to hold office, and
 - (d) the assets, rights and liabilities of the development corporation are transferred to the Ministerial Development Corporation, and
 - (e) Part 2 applies to that transfer.
- (2) **Amalgamation orders** On and from the date specified in an order made under section 5 (1) (h) for the amalgamation of 2 or more development corporations:
 - (a) each development corporation amalgamated by the order is dissolved, and
 - (b) the chief executive of each development corporation amalgamated by the order ceases to hold office, and
 - (c) the members of any board governed development corporation involved in the amalgamation (other than any chief executive) cease to hold office, and:
 - (i) if the amalgamated corporation is a board governed development corporation, are eligible (if otherwise qualified) to be appointed as members of the board of the amalgamated corporation, and
 - (ii) are not entitled to be paid any compensation by reason of ceasing to hold office, and
 - (d) the assets, rights and liabilities of each amalgamating development corporation are transferred to the amalgamated development corporation, and
 - (e) Part 2 applies to that transfer.
- (3) **Name change orders** On and from the date specified in an order made under section 5 (1) (c) changing the name of a development corporation, Part 3 applies to that change of name.
- (4) **Change of governance orders** On and from the date specified in an order made under section 5 (1) (g) (i) changing the nature of governance of a development corporation from board governance to chief executive governance, the members of the board of the development corporation (other than the chief executive) cease to hold office, but

are not entitled to be paid any compensation by reason of ceasing to hold office.

- (5) **Effect on compensation rights** Nothing in this Schedule affects any compensation rights to which the chief executive of a dissolved or amalgamating development corporation may be entitled under Part 3.1 of the *Public Sector Employment and Management Act 2002* as a consequence of ceasing to hold office as such.

Part 2 Transfers

4 Vesting of undertaking in transferee

- (1) When any assets, rights or liabilities are transferred by a transfer to which this Part applies, the following provisions have effect:
- (a) the assets of the transferor vest in the transferee by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance,
 - (b) the rights or liabilities of the transferor become by virtue of this clause the rights or liabilities of the transferee,
 - (c) all proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the transferor or a predecessor of the transferor and pending immediately before the transfer are taken to be proceedings pending by or against the transferee,
 - (d) any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the transferor is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the transferee,
 - (d1) the transferee has all the entitlements and obligations of the transferor in relation to those assets, rights and liabilities that the transferor would have had but for the order giving rise to the transfer, whether or not those entitlements and obligations were actual or potential at the time the order took effect,
 - (e) a reference in any Act, in any instrument made under any Act or in any document of any kind to the transferor or a predecessor of the transferor is (to the extent to which it relates to those assets, rights or liabilities) taken to include a reference to the transferee.
- (2) The operation of this clause 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, or

(d) as an event of default under any contract or other instrument.

(3) No attornment to the transferee by a lessee from the transferor is required.

(4) A transfer is subject to the terms and conditions of the order giving rise to the transfer.

(5) No compensation is payable to any person or body in connection with a transfer to which this Part applies except to the extent (if any) to which the order giving rise to the transfer so provides.

5 Date of vesting

A transfer to which this Part applies takes effect on the date specified in the order giving rise to the transfer.

6 Consideration for vesting

The Minister may, by order in writing, specify the consideration on which a transfer to which this Part applies is made and the value or values at which the assets, rights or liabilities are transferred.

7 No duties on transfer

Duty under the [Duties Act 1997](#) is not chargeable for or in respect of:

(a) a transfer to which this Part applies, or

(b) anything certified by the Minister as having been done in consequence of such a transfer (for example, the transfer or conveyance of an interest in land).

8 Confirmation of vesting

(1) The Minister may, by notice in writing, confirm a transfer of particular assets, rights or liabilities by operation of this Part.

(2) Such a notice is conclusive evidence of that transfer.

Part 3 Changes of name

9 Name changes do not affect status of service

A change of name of a development corporation by an order does not operate:

(a) to create a new legal entity, or

(b) to prejudice or affect the identity of the body corporate constituted as a development

corporation or its continuity as a body corporate, or

- (c) to affect the property, or the rights or obligations, of the development corporation, or
- (d) to render defective any legal proceedings by or against the development corporation, and any legal proceedings that could have been continued or commenced by or against the development corporation by its former name may be continued or commenced by or against it by its new name.

Part 4 Savings and transitional regulations

10 Regulations

- (1) The regulations may contain other provisions of a savings or transitional nature consequent on the making of an order to which this Schedule applies.
- (2) A provision referred to in subclause (1) which relates to a particular order may, if the regulations so provide, take effect as from the date of the order or a later day.
- (3) To the extent to which a provision referred to in subclause (1) 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, an authority of the State or a development corporation), the rights of that person existing before the date of its publication in the Gazette, or
 - (b) to impose liabilities on any person (other than the State, an authority of the State or a development corporation) in respect of anything done or omitted to be done before the date of its publication in the Gazette.
- (4) A provision referred to in subclause (1) has, if the regulations so provide, effect despite any other clause of this Schedule.

Schedule 2 Provisions relating to the constitution and procedure of board governed development corporations

(Section 6A)

1A Application of Schedule to Director-General and nominee

This Schedule (other than clause 9 (2)) applies to and in respect of a person who is a member of the board of a development corporation under section 6A (3) (c) in the same way as it applies to and in respect of a chief executive of a board governed development corporation.

1B Definitions

In this Schedule:

board means the board of the development corporation.

member means any member of the board.

1 Chairperson

(1) One of the members appointed by the Governor shall, by the instrument of the member's appointment or by a subsequent instrument executed by the Governor, be appointed as Chairperson of the board 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 a chief executive) 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 a chief executive) 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 Application of [Public Sector Employment and Management Act 2002](#)

- (1) The [Public Sector Employment and Management Act 2002](#) (other than Chapter 5) does not apply to or in respect of the appointment of a member and a member is not, in the member's capacity as a member, to be subject to the provision of that Act (other than Chapter 5) during the member's term of office.
- (2) In this clause, a reference to a **member** is a reference to a member other than a chief executive.

6 Vacation of office

- (1) A member (other than a chief executive) 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 a 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 member (other than a chief executive) from office.

(3)-(6) (Repealed)

7 Filling of vacancies

(1) On the occurrence of a vacancy in the office of a member (other than a chief executive), 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 quorum for a meeting of the board is:

- (a) if the board has an even number of members—one half of that number, and
- (b) in any other case—a majority of its members.

(2) One of the members referred to in subclause (1) shall be the Chairperson or, in the Chairperson's absence, the chief executive.

10 General procedure

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

10A (Repealed)

11 Presiding member

(1) The Chairperson (or, in the absence of the Chairperson, a person elected by the members of the board who are present at a meeting of the board, not being the chief executive) is to preside at a meeting of the board.

- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

12 Voting

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

13 Transaction of business outside meetings or by telephone

- (1) The board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the board 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 board.
- (2) The board 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 and each member have the same voting rights as they have at an ordinary meeting of the board.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the board.
- (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.

14 Minutes

The board must:

- (a) cause full and accurate minutes to be kept of the proceedings of each meeting of the board, and
- (b) submit a copy of those minutes to the Minister within one week after the date of the meeting.

15 Committees and sub-committees of boards

- (1) The board may establish committees to assist it in the exercise of its functions.
- (2) The board (or a committee of a board referred to in subclause (1) with the approval of

the board) may establish sub-committees to assist a committee in the exercise of such of the committee's functions as are referred to the sub-committee by the board (or by the committee with the approval of the board).

- (3) It does not matter that any or all of the members of a committee or a sub-committee are not members of the board.
- (4) Unless determined otherwise by the board, the procedure of a committee or a sub-committee is to be the same as for the board.

16-18 (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 board of the development corporation,
- (c) the appointment of any member, or
- (d) the presence of a quorum at any meeting of the board of the development corporation.

Schedules 3-5 (Repealed)

Schedule 6 Savings, transitional and other provisions

(Section 43)

Part 1 Preliminary

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

Growth Centres (Development Corporations) Amendment Act 2008

State Revenue and Other Legislation Amendment (Budget Measures) Act 2008, to the extent that it amends this Act

Redfern-Waterloo Authority Repeal Act 2011

- (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.

Part 2 Growth Centres (Development Corporations) Amendment Act 2008

4 Definition

In this Part, **the amending Act** means the *Growth Centres (Development Corporations) Amendment Act 2008*.

5 Existing growth centres and development corporations

- (1) The substitution of Part 2 of this Act by Schedule 1 [4] to the amending Act does not affect:
 - (a) the status of any growth centre that existed immediately before that substitution, and
 - (b) the corporate status of any development corporation that existed immediately before that substitution, and each such development corporation is the continuation of, and is the same legal entity as, the development corporation constituted under the same name before that substitution.
- (2) On the substitution of Part 2 of this Act by Schedule 1 [4] to the amending Act:
 - (a) each development corporation that existed immediately before that substitution ceases to be a corporation comprised of members and becomes a corporation without members, and
 - (b) the members of each development corporation cease to hold office as members of the corporation, but are not entitled to be paid any compensation by reason of ceasing to hold office, and
 - (c) each person holding office as the chief executive of a development corporation immediately before that substitution is taken to be appointed under section 6B of this Act on the same terms and conditions on which, and for the balance of the term for which, the person was appointed, and
 - (d) a board is constituted for each such development corporation, and
 - (e) each person who was an appointed member of such a development corporation immediately before that substitution is taken to have been appointed to that board under the relevant provision of section 6A of this Act as if the amending Act had been in force at the time of the appointment, and
 - (f) (Repealed)

6 Validation

Anything done before the commencement of the following provisions that would have been validly done had those provisions been in force when it was done is validated:

- (a) section 5 (1) (c) of, and clause 2 of Schedule 1A to, this Act (as inserted by the amending Act),
- (b) Schedule 1 [3] to the amending Act.

7 (Repealed)

Part 3 State Revenue and Other Legislation Amendment (Budget Measures) Act 2008

8 Interpretation

In this Part:

instrument has the same meaning as in clause 1 of Schedule 1A.

relevant corporation means the corporation constituted under section 8 (1) of the *Environmental Planning and Assessment Act 1979*.

9 Dissolution of Growth Centres Commission

On the commencement of this clause (as inserted by the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2008*):

- (a) the Growth Centres Commission is dissolved, and
- (b) the chief executive of the Growth Centres Commission ceases to hold office and for that purpose is taken to have been removed from office under section 77 of the *Public Sector Employment and Management Act 2002*, and
- (c) the assets, rights and liabilities of the Growth Centres Commission are transferred to the relevant corporation.

10 Transfer of assets, rights and liabilities to relevant corporation

- (1) The following provisions have effect in relation to the transfer under clause 9 of the assets, rights and liabilities of the Growth Centres Commission (**the transferor**) to the relevant corporation (**the transferee**):
 - (a) the assets of the transferor vest in the transferee by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance,
 - (b) the rights or liabilities of the transferor become by virtue of this clause the rights or liabilities of the transferee,
 - (c) all proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the transferor or a predecessor of the transferor and pending immediately before the transfer are taken to be proceedings pending by or against the transferee,
 - (d) any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the transferor is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the transferee,

- (e) the transferee has all the entitlements and obligations of the transferor in relation to those assets, rights and liabilities that the transferor would have had but for this clause, whether or not those entitlements and obligations were actual or potential at the time the transfer took effect,
 - (f) a reference in any instrument made under any Act or in any document of any kind (other than an instrument of appointment) to the Growth Centres Commission or to the chief executive of the Growth Centres Commission is taken to include a reference to:
 - (i) if the reference is used in relation to the operational functions of the Growth Centres Commission—the Director-General of the Department of Planning, or
 - (ii) in any other case—the transferee.
- (2) For the purpose of subclause (1) (f), the **operational functions** of the Growth Centres Commission include functions under this Act, the *Environmental Planning and Assessment Act 1979* or the *Threatened Species Conservation Act 1995*, or any other Act, that relate to the following:
- (a) promoting, co-ordinating, managing or securing the orderly and economic use and development of the areas of land comprising the former North West and South West Growth Centres (including, but not limited to, matters relating to precinct planning and development contributions),
 - (b) protecting, conserving or enhancing the environment within those areas of land or any areas that are related to those areas.
- (3) The regulations made under clause 3 of this Schedule may provide that a reference in any specified instrument or other document to the Growth Centres Commission is taken to include a reference to:
- (a) the relevant corporation, or
 - (b) the Director-General of the Department of Planning.
- (4) Any such regulation has effect despite subclause (1) (f) and may take effect on a date that is earlier than the date of its publication in the Gazette.
- (5) The operation of this clause 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, or

(d) as an event of default under any contract or other instrument.

(6) No attornment to the transferee by a lessee from the transferor is required.

(7) No compensation is payable to any person or body in connection with the transfer.

(8) Duty under the *Duties Act 1997* is not chargeable for or in respect of:

(a) the transfer, or

(b) anything certified by the Minister as having been done in consequence of the transfer (for example, the transfer or conveyance of an interest in land).

11 Transfer of assets and liabilities—validation

(1) Schedule 1A, as amended by the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2008*, extends to any transfer of assets, rights or liabilities, consequent on an order to which that Schedule applies, that was made at any time before the commencement of the amendment.

(2) For that purpose:

(a) the amendment is taken to have been in force when the relevant transfers occurred, and

(b) any such transfer is taken to have been validly made if it could have been made after that commencement.

(3) This clause does not apply to any transfer to the extent that it is affected by any proceedings of a court that were finally determined before that commencement.

(4) For the purposes of this clause, proceedings are not finally determined if:

(a) any period for bringing an appeal as of right in respect of the proceedings has not expired (ignoring any period that may be available by way of extension of time to appeal), or

(b) any appeal in respect of the proceedings is pending (whether or not it is an appeal brought as of right).

Part 4 Redfern-Waterloo Authority Repeal Act 2011

12 Definitions

In this Part:

ATPSL means Australian Technology Park Sydney Limited (ACN 060 969 119) and, if the name of that company is duly changed, includes the company under its changed name.

former Authority means the Redfern-Waterloo Authority constituted under the *Redfern-Waterloo Authority Act 2004* as in force immediately before its repeal.

Redfern-Waterloo Fund has the same meaning as in the repealed Act.

repeal date means the date on which the *Redfern-Waterloo Authority Act 2004* is repealed by the *Redfern-Waterloo Authority Repeal Act 2011*.

repealed Act means the *Redfern-Waterloo Authority Act 2004*.

SMDA means the Sydney Metropolitan Development Authority.

13 Dissolution of former Authority

- (1) On the repeal date, the former Authority is dissolved.
- (2) On the repeal date:
 - (a) each person appointed as a member of the Board of the former Authority ceases to hold office as such a member, and
 - (b) each person appointed as a member of an advisory committee under section 12 of the repealed Act ceases to hold office as such a member.
- (3) A person who ceases to hold office under this clause is not entitled to any remuneration or compensation because of the loss of that office.
- (4) On the repeal date, any member of staff of the Office of the former Authority is transferred to the Office of SMDA.
- (5) On and from the repeal date, a reference in any Act, in any instrument made under an Act or in a document of any kind:
 - (a) to the former Authority is to be construed as a reference to SMDA, or
 - (b) to the Office of the former Authority (in relation to any member of staff transferred under subclause (4)) is to be construed as a reference to the Office of SMDA.

14 Abolition of Redfern-Waterloo Fund

- (1) On the repeal date, the Redfern-Waterloo Fund is abolished.
- (2) A reference in this Part to the assets, rights and liabilities of the former Authority extends to assets, rights and liabilities in connection with the Redfern-Waterloo Fund.

15 Transfer of assets, rights and liabilities of former Authority

- (1) On the repeal date, the assets, rights and liabilities of the former Authority are transferred to SMDA.

- (2) Part 2 of Schedule 1A has effect in relation to the transfer under this clause as if a reference in that Part to an order were a reference to this clause.

16 Subsequent transfer of specified assets, rights and liabilities by order

- (1) The Minister may, by order in writing, transfer to another public sector agency any assets, rights and liabilities transferred to SMDA under clause 15 that are specified or referred to in the order.
- (2) Part 2 of Schedule 1A has effect in relation to a transfer under this clause as if a reference in that Part to an order were a reference to an order under this clause.
- (3) This clause does not apply to the asset consisting of the interest, transferred under clause 15, that SMDA has in ATPSL.
- (4) In this clause, **public sector agency** means any of the following:
- (a) the State (including the Crown in right of the State),
 - (b) a Minister,
 - (c) the Ministerial Development Corporation,
 - (d) the Ministerial Holding Corporation constituted by the *State Owned Corporations Act 1989*,
 - (e) a State owned corporation within the meaning of the *State Owned Corporations Act 1989*,
 - (f) a public authority of the State,
 - (g) any other person acting on behalf of the State (or the Crown in right of the State).
- (5) An order may not be made under this clause more than 2 years after the commencement of this clause.

17 Australian Technology Park Sydney Limited

- (1) On and from the repeal date, SMDA has such functions as are necessary or convenient for the purposes of managing the affairs of ATPSL.
- (2) Those functions are additional to the functions that SMDA has, as a development corporation, under this or any other Act.
- (3) However, SMDA cannot:
- (a) sell or dispose of an interest in ATPSL, or
 - (b) approve of another person becoming a member of ATPSL.

- (4) ATPSL may continue to exercise any function that it could exercise immediately before the repeal date.

18 Development contributions

- (1) This clause applies on and from the repeal date.
- (2) Sections 30–32 of the repealed Act continue to have effect.
- (3) A reference in those sections or in any related contributions instrument to payment of money into the Redfern–Waterloo Fund is taken to be a reference to payment into a fund used by SMDA for the purposes of those sections.
- (4) A reference in section 32 of the repealed Act or in any related contributions instrument:
- (a) to the former Authority is taken to be a reference to SMDA, or
 - (b) to the Minister administering the repealed Act is taken to be a reference to the Minister administering this Act.
- (5) For the purposes of enabling SMDA to enter into a planning agreement under Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979*, any public notice given or other action taken by the former Authority for the purposes of the agreement, is taken to have been given or taken by SMDA.
- (6) In this clause, **related contributions instrument** means any of the following:
- (a) any condition referred to in section 30 or 31 of the repealed Act,
 - (b) any contributions plan referred to in section 32 of the repealed Act,
 - (c) any planning agreement entered into under section 28A of the repealed Act.

19 Saving of Redfern–Waterloo Plan

- (1) The Redfern–Waterloo Plan is taken to be an approved scheme:
- (a) for any part of the growth centre in respect of which SMDA is constituted that is within the operational area, and
 - (b) to the extent that the Plan contains proposals of the kind referred to in section 7 (2) (a).
- (2) This clause ceases to have effect when another approved scheme for the growth centre in respect of which SMDA is constituted takes effect.
- (3) In this clause:
- operational area** has the same meaning as under the repealed Act.

Redfern-Waterloo Plan means the plan of that name, as in force immediately before the repeal date, under section 27 of the repealed Act.

20 Matters affecting the Aboriginal Housing Company and “the Block”

- (1) Section 33 of the repealed Act continues to have effect as if a reference to the Minister administering the repealed Act were a reference to the Minister administering this Act.
- (2) This clause ceases to have effect when the area of land bounded by Eveleigh, Caroline, Louis and Vine Streets, Redfern, ceases to be within the growth centre in respect of which SMDA is constituted.