

# Land Development Contribution Management Act 1970 No 22

[1970-22]



New South Wales

## Status Information

### Currency of version

Current version for 1 July 2018 to date (accessed 19 May 2024 at 16:27)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Responsible Minister

- Minister for Planning and Public Spaces

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 25 February 2019

# Land Development Contribution Management Act 1970 No 22



New South Wales

## Contents

**Long title** ..... 6

**Part 1 Preliminary** ..... 6

1 Name of Act and commencement ..... 6

2 (Repealed) ..... 6

3 Definitions ..... 6

4 References in this Act to base date valuation ..... 8

5 References in this Act to development consents ..... 9

**Part 2 Land development contribution** ..... 10

6 Contributions to be levied and paid in respect of declared land ..... 10

7 Time when declared land becomes liable for contribution ..... 10

7A Certain dispositions to cease to attract liability ..... 13

8 Certain land not liable ..... 13

9 Leviable increase in the price of land ..... 14

10 Leviable increase in the value of land ..... 15

11 Declaration of released land ..... 16

**Part 3 Assessment of contribution** ..... 16

12 Person liable to pay contribution ..... 16

13 Assessment of contribution when land becomes liable for contribution ..... 17

14 Contribution to be reduced by amount of previous contribution ..... 18

15 Postponement of whole or part of contribution where minor development approved ..... 19

16 Refund or waiver of contribution where disposition etc rescinded etc.....	20
17 Liability of council to pay contribution where land sold for overdue rates.....	22
18 Right to pay contribution in advance.....	23
19 Amendment of assessments .....	23
20 Notice of assessment .....	24
21 Validity of assessment.....	24
<b>Part 4 Objections and appeals.....</b>	<b>24</b>
22 Appeal .....	24
23 Pending appeal not to affect assessment.....	25
24 Appeals to Court.....	25
24A Objections and appeals as to certain applications under sec 16.....	26
<b>Part 5 Collection and recovery of contribution.....</b>	<b>27</b>
25 Date of payment of contribution .....	27
26 Additional contribution in case of default .....	27
27 Extension of time and payment by instalments .....	28
28 Recovery of contribution .....	28
29 Substituted service.....	28
30 Provisions where contribution not paid in contributor's lifetime.....	28
31 Action to recover contribution may be taken at any time.....	29
32 Default.....	29
33 Contribution between contributors jointly liable.....	30
34 Waiver of contribution in cases of hardship.....	30
35 Writing off contribution .....	30
36 Appeals Board's powers may be exercised by the Secretary of the Authority in certain cases .....	31
37 Definition of contribution for certain purposes .....	31
38 Contribution to be a first charge on land.....	31
<b>Part 6 Valuation of lands .....</b>	<b>32</b>
39 Valuations.....	32
40 Valuer-general to make base date valuations.....	32
41 Interested persons may obtain base date valuation.....	32
42 Valuations at other dates.....	33
43 Apportionment and amalgamation of valuations.....	34

44 Notice of valuation .....	35
45 Absence of notice does not invalidate valuation .....	35
46 Objections to valuations .....	35
47 Procedure on objection .....	36
48 Appeals to Court.....	36
49 Hearing by Court .....	37
50 Consequential procedure.....	37
51 Record of valuations .....	37
52 Amendments .....	37
53 Valuer-general may enter and inspect land and require information.....	37
<b>Part 7 Finance .....</b>	<b>39</b>
54 The Fund.....	39
55 Accounts and audit.....	40
<b>Part 8 Evidence.....</b>	<b>40</b>
56 Authority to issue evidentiary certificates in respect of certain matters .....	40
56A Conclusive presumption as to prescribed land .....	42
57 Evidence of maps or plans .....	43
58 Evidence of assessments and valuations .....	43
<b>Part 9 General .....</b>	<b>44</b>
59 Appeals Board .....	44
60 Authority to be notified of development for which consent not required .....	44
61 Contribution payable where illegal development carried out .....	45
62 Injunction may be obtained by Authority to prevent development where contribution not paid.....	46
63 Operation of Act in relation to the Crown and statutory bodies.....	46
64 Secrecy.....	47
65 Agents and trustees .....	48
66 Contracts to evade contribution void .....	49
67 Access to lands, buildings etc.....	49
68 Service of notices .....	49
69 Power to obtain evidence .....	50
70 Failure to furnish information.....	51
71 (Repealed) .....	51

72 Report to Parliament..... 51

73 Regulations..... 51

74 Evading contribution ..... 52

75 Obstruction..... 52

76 Penalties not to relieve from contribution..... 52

77 General penalty ..... 52

78 Recovery of penalties ..... 52

**Part 10 (Repealed) ..... 52**

**First Schedule ..... 52**

**Second Schedule ..... 53**

**Third Schedule ..... 54**

**Fourth Schedule ..... 54**

**Fifth Schedule ..... 54**

# Land Development Contribution Management Act 1970 No 22



New South Wales

An Act to make provision relating to the levy, assessment and collection of a contribution in relation to the development of certain land within the Sydney region; to amend the [Local Government Act 1919](#) and certain other Acts; and for purposes connected therewith.

## Part 1 Preliminary

### 1 Name of Act and commencement

- (1) This Act may be cited as the [Land Development Contribution Management Act 1970](#).
- (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

### 2 (Repealed)

### 3 Definitions

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

**agent** includes every person who in the State, for or on behalf of any person out of the State (in this definition termed **the principal**) has the control or disposal of any land belonging to the principal or the control, receipt or disposal of any rents, issues or proceeds derived from any such land.

**Appeals Board** means the Appeals Board constituted under section 59.

**assessment** means an assessment of contribution under Part 3.

**Authority** means the New South Wales Planning and Environment Commission constituted under the [New South Wales Planning and Environment Commission Act 1974](#).

**base date** means the first day of August, one thousand nine hundred and sixty-nine.

**contribution** means development contribution calculated at the rates fixed by the

Contribution Act on the leviable increase in the price of land or on the leviable increase in the value of land.

**Contribution Act** means the [Land Development Contribution Act 1970](#).

**contributor** means a person who may be assessed for contribution in accordance with this Act.

**council** has the meaning ascribed thereto in section 4 of the [Local Government Act 1919](#).

**county council** means a county council constituted under the [Local Government Act 1919](#).

**Court** means the Land and Environment Court.

**Crown land** has the same meaning as in the [Crown Land Management Act 2016](#).

**declared land** means any land to which an order under section 11 applies, being an order published in the Gazette on or before 7 February 1973.

**development** has the meaning ascribed thereto in subsection (1) of section 342T of the [Local Government Act 1919](#).

**Fund** means the Land Development Contribution Fund established under Part 7.

**interim development order** has the meaning ascribed thereto in subsection (1) of section 342T of the [Local Government Act 1919](#).

**joint organisation** has the same meaning as in the [Local Government Act 1993](#).

**land** includes land the owner of which is the Crown or a body corporate that is constituted by or under any Act and is deemed by that or any other Act to be a statutory body representing the Crown or to represent the Crown.

**local government area** has the meaning ascribed thereto in section 4 of the [Local Government Act 1919](#).

**mortgage** includes any charge whatever upon land or any interest therein, however created, for the securing of money.

**owner** means a person who has an estate or interest in land.

**planning scheme** means a scheme prescribed under Part 12A of the [Local Government Act 1919](#) and includes the County of Cumberland Planning Scheme.

**public place** has the meaning ascribed thereto in section 4 of the [Local Government Act 1919](#).

**public reserve** has the meaning ascribed thereto in section 4 of the [Local Government Act 1919](#).

**public road** has the meaning ascribed thereto in the [Roads Act 1993](#).

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

**subdivision** has the meaning ascribed thereto in section 4 of the [Local Government Act 1919](#).

**the non-urban Sydney region** means the land within the local government areas specified in the Second Schedule that is shown edged red and tinted brown on the plans specified in the Third Schedule and filed in the office of the Authority.

**the Sydney region** means the local government areas specified in the First Schedule.

**trustee** includes, in addition to every person appointed or constituted trustee by act of parties, by order or declaration of a court or by operation of law:

- (a) an executor or administrator, guardian, committee, receiver or liquidator, and
- (b) every person having or taking upon himself or herself the administration or control of land affected by any express or implied trust or acting in any fiduciary capacity, or having the possession, control or management of land of a person under legal or other disability.

**valuation**, in relation to land, means a determination of the value of the land made in accordance with the provisions of this Act.

**valuer-general** means the valuer-general appointed under the [Valuation of Land Act 1916](#).

- (2) The powers, authorities, duties and functions conferred and imposed upon a council under this Act apply in respect of each local government area to the council of the area.

#### **4 References in this Act to base date valuation**

- (1) For the purposes of assessing any contribution, a reference in this Act to a base date valuation in respect of any land is a reference:
  - (a) except as provided by paragraph (b), to the valuation of that land as at the base date, or
  - (b) where that valuation has been altered in accordance with section 47 or 49, to that valuation as so altered,increased in either case by an amount equal to the appropriate percentage of that



valuation, or of that valuation as so altered, calculated in respect of each complete year or part thereof within the period commencing on the base date and ending on the date on which that land became liable for that contribution.

- (2) For the purposes of subsection (1) the appropriate percentage is:
- (a) except as provided in paragraph (b), two per centum per annum, or
  - (b) in respect of any part of the period referred to in subsection (1) that is within a quinquennial period commencing on the first day of August in the year one thousand nine hundred and seventy-four or in any fifth year thereafter, such other percentage per annum as may be prescribed in respect of that quinquennial period.
- (3) A regulation prescribing another percentage for the purposes of subsection (2) shall not be made except on the recommendation of the Treasurer.

## **5 References in this Act to development consents**

A reference in this Act:

- (a) to the grant of a development consent is a reference:
- (i) to the passing of a resolution whereby an approval, consent or permission to carry out development is granted by a council under Part 12A of the [Local Government Act 1919](#), under a planning scheme or under an interim development order,
  - (ii) to the making of a decision under that Part, under a planning scheme or under an interim development order, by the Minister or the Authority, as a result of which a person is entitled to carry out development, and
  - (iii) to the delivering of a decision of the Local Government Appeals Tribunal constituted under Part 12B of the [Local Government Act 1919](#), on an appeal under subsection (2) of section 342N of that Act, as a result of which a person is entitled to carry out development,
- but where an approval, consent or permission referred to in subparagraph (i), or a decision referred to in subparagraph (ii), is subject to appeal the consent shall be deemed not to have been granted and the decision shall be deemed not to have been made until:
- (iv) the expiration of one month after the grant of the development consent as referred to in subparagraph (i) (ii) or (iii), or
  - (v) where an appeal has been lodged, it has been finally determined or withdrawn,
- whichever is the later, and
- (b) to a development consent is a reference to any such resolution or decision.

## **Part 2 Land development contribution**

### **6 Contributions to be levied and paid in respect of declared land**

Contributions shall be levied and paid in respect of declared land.

### **7 Time when declared land becomes liable for contribution**

(1) Declared land becomes liable for contribution, calculated on the leviable increase in the price of the land, on every date on which it is disposed of on or after the date of publication in the Gazette of an order:

- (a) under section 11, and
- (b) applying to the land,

and where an interim development order or planning scheme applying to the land has not been subsequently published in the Gazette.

(2) Declared land becomes liable for contribution, calculated on the leviable increase in the value of the land, on the date on which it is first disposed of or a development consent relating to the land is first granted (whichever first happens) on or after the date on which an interim development order or planning scheme applying to the land is published in the Gazette, being the interim development order or planning scheme that is first so published after the date on which an order:

- (a) under section 11, and
- (b) applying to the land,

is so published.

(3) For the purposes of this Act, land is disposed of:

- (a) where a contract or agreement for the sale or other divesting, whether by way of exchange or otherwise, of an estate in fee simple in the land is entered into by the vendor or party divesting himself or herself of the land,
- (b) where a contract or agreement for the giving of a direction relating to the land and referred to in the provisions of subsection (5) of section 17 of the [Real Property Act 1900](#) is entered into by the applicant referred to in that subsection,
- (c) where the land is not Crown land and a memorandum of transfer transferring an estate in fee simple in the land or an instrument conveying an estate in fee simple in the land is executed by the transferor or conveyor otherwise than pursuant to a contract or agreement referred to in paragraph (a), whether entered into before or after the commencement of this Act,
- (d) where a direction relating to the land and referred to in the provisions of

subsection (5) of section 17 of the *Real Property Act 1900* is given by the applicant referred to in that subsection otherwise than pursuant to a contract or agreement referred to in paragraph (b), whether entered into before or after the commencement of this Act,

- (e) where an instrument of transfer or conveyance (not being a Crown grant) of an estate or interest in Crown land (being an estate or interest under a prescribed tenure or under one of a class of tenures prescribed for the purposes of paragraph (b) of subsection (5)) is executed by the transferor or conveyor otherwise than pursuant to a contract or agreement referred to in paragraph (a), whether entered into before or after the commencement of this Act, or
- (f) where an estate in fee simple in the land is divested, otherwise than in a manner referred to in paragraph (a), (b), (c), (d) or (e), from any person under the provisions of any Act, or Act of the Commonwealth, providing for the compulsory acquisition of land,

but is not disposed of:

- (g) where such a contract, agreement, direction, memorandum of transfer, instrument of transfer or conveyance is entered into, given or executed by the Authority in favour of the Crown, a council or body corporate constituted by or under any Act and the land is to be used for a public road or public reserve or for a public purpose (whether of the same or a different kind) approved by the Minister,
- (h) where such a contract, agreement, direction, memorandum of transfer, instrument of transfer or conveyance is entered into, given or executed by the Crown, a council or such a body corporate in favour of the Authority and the land was acquired by the Crown, that council or body corporate pursuant to a contract, agreement, direction, memorandum of transfer, instrument of transfer or conveyance referred to in paragraph (g),
- (i) where a transfer or instrument of conveyance is entered into in relation to Crown land by way of mortgage or sub-mortgage or by way of release of mortgage or sub-mortgage of those lands,
- (j) where it is the subject of a transmission to a person in the person's capacity as an executor of the will or administrator or trustee of the estate of a deceased person,
- (k) where it is the subject of a transfer, conveyance or transmission in specie to a devisee of the land under a will or to a person entitled on the intestacy of a deceased person,
- (l) where it is the subject of any instrument whereby it is vested in trustees in the place of other trustees,
- (m) where it becomes vested in a person in the person's capacity as the official

receiver or a trustee in bankruptcy,

- (n) where it becomes vested in a person in the person's capacity as the liquidator of a company,
- (o) where a contract, agreement, a memorandum of transfer or instrument of conveyance is entered into or executed as a consequence of levying execution on the land,
- (p) where it is disposed of, as referred to in paragraph (a), (b), (c), (d) or (e), as property of the Commonwealth, or
- (q) where it is disposed of, as referred to in paragraph (a), (b), (c), (d), (e) or (f), in such cases or circumstances as may be prescribed.

(4) For the purposes of this Act, the date on which land is disposed of is:

- (a) where the land is disposed of:
  - (i) as referred to in paragraph (a) or (b) of subsection (3)—the date of the contract or agreement, or
  - (ii) as referred to in paragraph (c), (d) or (e) of that subsection—the date of the memorandum of transfer, instrument of transfer or conveyance or direction,  
  
or where the contract, agreement, memorandum of transfer, instrument of transfer or conveyance or direction is undated, the date on which the contract or agreement is executed by the vendor or person disposing of the land, the memorandum of transfer or instrument of transfer is executed by the transferor, the instrument of conveyance is executed by the conveyor or the direction is executed by the person giving it, as the case may be, or
- (b) where land is disposed of as referred to in paragraph (f) of subsection (3)—the date on which the land is divested from the person referred to in that paragraph.

(5) A reference in subsection (3) to an estate in fee simple in land includes a reference to:

- (a) an estate or interest in the land that may be converted by the holder thereof into an estate in fee simple in the land under section 134 of the [Conveyancing Act 1919](#), and
- (b) where the land is Crown land, an estate or interest in the land under a prescribed tenure or one of a prescribed class of tenures.

(6) The reference in subsection (2) to a development consent does not include a reference to a development consent for the carrying out of development for a charitable purpose or for any purpose ancillary to that purpose or, without limiting the generality of the foregoing, for the purpose of any works of electricity supply to be

carried out or conducted by an electricity generator within the meaning of the *Energy Services Corporations Act 1995*, an energy distributor within the meaning of the *Energy Services Corporations Act 1995* or an authorised distributor under the *Electricity Network Assets (Authorised Transactions) Act 2015*, any works of water supply or of sewerage or drainage to be carried out or conducted by the Metropolitan Water Sewerage and Drainage Board, a county council, a joint organisation or a council, any works for or in connection with public roads to be carried out or conducted by the Commissioner for Main Roads or a council, or for the purpose of a public place, a public reserve, a public cemetery or crematorium, a public hospital, a public railway, a public school, a technical college, a university constituted under any Act or a college of any such university, a college of advanced education within the meaning of the *Higher Education Act 1969* or for any other public purpose (whether of a like or different nature) that is approved by the Authority, for the purposes of this section, with the consent of the Treasurer.

- (7) A reference in subsection (1) or (2) to a disposition of land does not, where the date on which the land is disposed of is 8 February 1973, or any subsequent day, include a reference to that disposition.
- (8) A reference in subsection (2) to a development consent does not include a reference to a development consent granted on or after 8 February 1973.

#### **7A Certain dispositions to cease to attract liability**

- (1) Where land has become liable for contribution as a consequence of a disposition, the Authority may declare that the disposition is a disposition to which this section applies.
- (2) Subsections (1) and (2) of section 7 shall cease to apply in respect of land that has become liable to contribution as a consequence of a disposition declared to be a disposition to which this section applies, and that land shall be deemed never to have become so liable as a consequence of that disposition.
- (3) The Authority shall not make a declaration under this section in relation to any disposition unless the Authority, having regard to all the circumstances of the case, is satisfied that it is just and equitable to do so.

#### **8 Certain land not liable**

- (1) Notwithstanding any other provision of this Act, where a parcel of land:
  - (a) was, at the base date, owned by a natural person,
  - (b) was the only parcel of land owned by that person at that date,
  - (c) had, at that date, erected thereon a single dwelling-house, and was, at that date, being used for residential purposes, and

(d) had, at that date, an area not exceeding nine thousand square feet,  
that parcel of land is not liable for contribution.

(2) In this section:

**parcel of land** means a lot in a lawful division of land or, where, at the base date, a single dwelling-house was erected on land in two or more such lots, the land comprised in those lots.

**single dwelling-house** means one dwelling used or adapted for use solely for habitation by not more than one family.

## **9 Leviable increase in the price of land**

(1) For the purposes of this Act, the leviable increase in the price of any land is:

- (a) where the consideration applicable upon the land being disposed of exceeds the base date valuation of that land—the amount ascertained by subtracting from that consideration that base date valuation, and
- (b) where that consideration does not exceed that base date valuation—nil.

(2) For the purposes of subsection (1), the consideration applicable upon any land being disposed of is:

- (a) where the land is disposed of for a consideration that consists of an amount of money only, and:
  - (i) the land is disposed of, as referred to in paragraph (a) of subsection (3) of section 7—the sum of the consideration expressed in the contract or agreement for the sale or other divesting of the land and, where the contract or agreement was entered into as a consequence of the exercise of an option to purchase or acquire the land, any amount paid in respect of that option,
  - (ii) the land is disposed of as referred to in paragraph (b) of subsection (3) of section 7—the sum of the consideration expressed in the contract or agreement for the giving of the direction relating to the land and, where the contract or agreement was entered into as a consequence of the exercise of an option for the giving of the direction, any amount paid in respect of that option,
  - (iii) the land is disposed of, as referred to in paragraph (c) of subsection (3) of section 7—the sum of the consideration expressed in the memorandum of transfer or conveyance and, where the memorandum of transfer or conveyance was executed as a consequence of the exercise of an option to purchase, or for the transfer or conveyance of, the land, any amount paid in respect of that option, or

(iv) the land is disposed of, as referred to in paragraph (e) of subsection (3) of section 7—the sum of the consideration expressed in the instrument of transfer or conveyance and, where any such instrument was executed as a consequence of the exercise of an option for the transfer or conveyance of the estate or interest in the land, any amount paid in respect of that option, or

(b) where the land is disposed of:

(i) as referred to in paragraph (a), (b), (c) or (e) of subsection (3) of section 7 and the consideration applicable is not ascertainable under paragraph (a), or

(ii) as referred to in paragraph (d) or (f) of that subsection,

the amount determined by the valuer-general as being the value, as at the date of the disposition, of the land.

(3) Where a valuation of any land disposed of as referred to in paragraph (a), (b), (c) or (e) of subsection (3) of section 7 for a consideration that consists of an amount of money only is made in accordance with section 42 that valuation shall be, for the purposes of subsection (1), the consideration applicable upon the land being so disposed of.

## 10 Leviable increase in the value of land

(1) For the purposes of this Act, the leviable increase in the value of any land is:

(a) where the final valuation of that land exceeds the base date valuation of that land—the amount ascertained by deducting from that final valuation that base date valuation, and

(b) where that final valuation does not exceed that base date valuation—nil.

(2) The reference in subsection (1) to the final valuation of any land is a reference:

(a) except as provided in paragraph (b), to the valuation of that land as at the date (in this section referred to as the **final date**) upon which an interim development order or planning scheme is published in the Gazette, being the interim development order or planning scheme that is first so published after the date on which an order:

(i) under section 11, and

(ii) applying to the land,

is so published, or

(b) where that valuation has been altered in accordance with section 47 or 49, to that valuation as so altered,

increased in either case by an amount equal to the appropriate percentage of that valuation, or of that valuation as so altered, calculated in respect of each complete year or part thereof within the period commencing on the final date and ending on the date on which the land became liable for contribution calculated on the leviable increase in the value of the land.

- (3) For the purposes of subsection (2) the appropriate percentage is:
- (a) except as provided in paragraph (b), two per centum per annum, or
  - (b) in respect of any part of the period referred to in subsection (2) that is within a quinquennial period referred to in paragraph (b) of subsection (2) of section 4, the percentage prescribed for the purposes of that paragraph in respect of that quinquennial period.
- (4) A regulation prescribing another percentage for the purposes of subsection (3) shall not be made except on the recommendation of the Treasurer.

#### **11 Declaration of released land**

- (1) The Minister may, by order published in the Gazette, declare that any land, specified or described in the order, that is within the non-urban Sydney region is land liable for contribution under this Act.
- (2) For the purposes of this Act, an order shall be deemed to have been published in the Gazette on the date of commencement of this Act declaring that the land within the local government areas specified in the Fourth Schedule and shown tinted light green on the plans specified in the Fifth Schedule and filed in the office of the Authority is land liable for contribution under this Act.

### **Part 3 Assessment of contribution**

#### **12 Person liable to pay contribution**

The person liable to be assessed for contribution in respect of any land is, where the land becomes liable for contribution as a consequence of:

- (a) its being disposed of as referred to in paragraph (a) of subsection (3) of section 7—the vendor or party referred to in that paragraph,
- (b) its being disposed of as referred to in paragraph (b) of that subsection—the applicant referred to in that paragraph,
- (c) its being disposed of as referred to in paragraph (c) of that subsection—the transferor or conveyor referred to in that paragraph,
- (d) its being disposed of as referred to in paragraph (d) of that subsection—the applicant referred to in that paragraph,



- (e) its being disposed of as referred to in paragraph (e) of that subsection—the transferor or conveyor referred to in that paragraph,
- (f) its being disposed of as referred to in paragraph (f) of that subsection—the person referred to in that paragraph, and
- (g) the granting of a development consent—the applicant for that consent.

### **13 Assessment of contribution when land becomes liable for contribution**

- (1) Where land becomes liable for contribution, otherwise than as a consequence of the granting of a development consent, the contributor shall, within a period of fourteen days thereafter or within such further period as the Authority allows before or after the expiration of that period, give notice to the Authority, on a form provided by the Authority, that the land has become so liable and shall, on that form, furnish the information stated on that form to be required.
- (2) Where, after the final date referred to in subsection (2) of section 10 and applicable to the land, a development consent granted as referred to in subparagraph (i) or (iii) of paragraph (a) of section 5 is granted in respect of any declared land, the council in whose area the land is situated shall, within the prescribed time, give to the Authority:
  - (a) notice in writing that the consent has been granted,
  - (b) a copy of the application made to the council for the development consent and of any plans that accompanied that application, and
  - (c) in the case of a development consent granted as referred to in subparagraph (i) of paragraph (a) of section 5, notice in writing of any notice for the rescission, and of any rescission, of the resolution granting the development consent.
- (3) Where, after the final date referred to in subsection (2) of section 10 and applicable to the land, the Minister makes a decision referred to in subparagraph (ii) of paragraph (a) of section 5, in respect of any declared land, the Minister shall cause a copy of the decision to be given to the Authority.
- (4) As soon as practicable:
  - (a) after the receipt of a notice referred to in subsection (1) or (2),
  - (b) after the receipt of a copy of a decision referred to in subsection (3), or
  - (c) after the Authority makes a decision referred to in subparagraph (ii) of paragraph (a) of section 5 in respect of any declared land,the Authority shall assess the contribution, if any, payable and shall serve notice of the assessment:
  - (d) where the notice received by the Authority was given to it under subsection

- (1)—on the contributor, as shown in that notice, liable to be assessed for the contribution,
  - (e) where the notice received by the Authority was given to it under subsection (2)—on the contributor, as shown in the copy of the application referred to in that subsection, or
  - (f) where a decision referred to in paragraph (b) or (c) has been made—on the contributor who made the application in respect of which the Minister's or the Authority's decision was made.
- (5) An assessment may be made by the Authority whenever land becomes liable for contribution whether or not any notice or other document required by this section to be given to the Authority has been given, and the Authority may serve notice of the assessment on every person who, in its opinion, is liable to be assessed for contribution in accordance with section 12.
- (6) An assessment may be made by the Authority on the basis of any information in its possession.
- (7) The provisions of subsections (2) and (3) do not apply to or in respect of any declared land in respect of which the Authority has notified the council or the Minister that no further contribution is payable.

#### **14 Contribution to be reduced by amount of previous contribution**

- (1) In assessing the contribution in respect of any land there shall be deducted from the contribution that would but for this subsection be payable any contribution previously assessed in respect of that land.
- (2) A reference in subsection (1) to any contribution previously assessed in respect of any land:
  - (a) includes a reference:
    - (i) to an amount that bears to any contribution previously assessed in respect of that land, or any part of that land, and any other land the same proportion as the base date valuation of that land or part bears to the base date valuation of that land, or that part, and that other land,
    - (ii) to any contribution previously assessed in respect of any part of that land, and
    - (iii) to so much of any contribution previously assessed in respect of that land as has been waived under section 34, or written-off under section 35; but
  - (b) does not:
    - (i) include a reference to so much of any contribution as has been refunded or

waived in accordance with section 16,

- (ii) include a reference to so much of any contribution as the Authority has, in accordance with section 15 or 61, determined shall not be payable, or
- (iii) as on and from the date on which any amount of contribution becomes liable to be refunded as a consequence of the determination of an objection to or appeal against an assessment or a valuation or an amendment of an assessment include a reference to that amount.

- (3) Where the deduction to be made under this section exceeds the contribution from which the deduction is required to be made, the Authority shall not be liable to refund the excess.

## **15 Postponement of whole or part of contribution where minor development approved**

- (1) Where:

- (a) land becomes liable for contribution as a consequence of the granting of a development consent, as referred to in subsection (2) of section 7, and
- (b) an application for a determination to be made under this section is made to the Authority by the person liable to pay that contribution,

the Authority may:

- (c) if it is satisfied that the development to which the consent relates is of such a nature and is proposed to be carried out in such circumstances or affects such a small portion of the land that it would not be reasonable to require payment of that contribution in full or in part, determine that no part of that contribution or that only such part of that contribution as it considers reasonable shall be payable, or
- (d) if it is not so satisfied, determine that the whole of that contribution shall be payable,

and any such determination shall, subject to subsection (2), have effect accordingly.

- (2) Any applicant for a determination under subsection (1) who is dissatisfied with the determination made by the Authority on the application may, within the prescribed time, appeal to the Appeals Board against the determination and the decision of that Board on the application shall be final and conclusive and shall have effect as if it were the determination of the Authority.
- (3) Where a determination, other than a determination that the whole of the contribution shall be payable, is made under subsection (1) or (2) relating to the contribution in respect of any land:

- (a) the land shall be or become liable for any contribution that would have been or become payable had the development consent referred to in paragraph (a) of subsection (1) not been granted, and
- (b) the Authority shall:
  - (i) include in the notice of assessment of the contribution a statement specifying the particulars of the determination, and
  - (ii) serve a copy of that assessment on the council in whose area the land is situated.

#### **16 Refund or waiver of contribution where disposition etc rescinded etc**

(1) Where:

- (a) land has become liable for contribution, and
- (b) the disposition or development consent as a consequence of which the land became liable for that contribution has been rescinded, cancelled, annulled or revoked,

the contributor is entitled:

- (c) where the contribution has been paid in whole, to a refund of the amount of the contribution paid,
- (d) where the contribution is wholly unpaid, to a waiver of the amount of contribution unpaid, or
- (e) where the contribution has been partly paid, to a refund of the amount of contribution paid and to a waiver of the amount of contribution unpaid.

(2) A person is not entitled to a refund of contribution or a waiver of contribution under subsection (1):

- (a) unless the person makes application therefor in writing and, where a form of application is prescribed, on the prescribed form,
- (b), (c) (Repealed)
- (d) unless, where the refund or waiver is applied for by reason of a development consent being revoked, any instrument evidencing the development consent is, where the Authority so requires, surrendered to the Authority,
- (e) unless the Authority has no notice of:
  - (i) any disposition for the purposes of section 7 having been made, or
  - (ii) any development consent having been granted,

after the date on which the disposition or development consent referred to in paragraph (b) of subsection (1) was made or granted and before 8 February 1973,

(ei) unless, where the disposition or development consent referred to in paragraph (b) of subsection (1) was rescinded, cancelled, annulled or revoked on or after 8 February 1973, the Authority decides that it is, having regard to all the circumstances of the case, satisfied that the disposition or consent was not rescinded, cancelled, annulled or revoked for the purpose of avoiding or evading liability for contribution or for purposes including that purpose, and

(f) unless the person furnishes to the Authority such evidence as it may require.

(3) For the purposes of subsections (1) and (2), a development consent is revoked:

(a) if it is rescinded or revoked in any manner authorised by law,

(b) if it expires by effluxion of time, or

(c) if:

(i) the person to whom the development consent was granted applies to the Authority for the development consent to be revoked, and

(ii) the Authority grants a certificate certifying that the surrender of the development consent has been accepted.

(3A) Where the revocation of a development consent was or is applied for under paragraph (c) of subsection (3) on or after 8 February 1973, the Authority shall not grant a certificate under that paragraph in relation to the consent unless it decides that it is, having regard to all the circumstances of the case, satisfied that the application was not made for the purpose of avoiding or evading liability for contribution or for purposes including that purpose.

(4) Where the Authority grants a certificate referred to in subparagraph (ii) of paragraph (c) of subsection (3), it shall where the development consent is a development consent granted as referred to:

(a) in subparagraph (i) of paragraph (a) of section 5—notify, in writing, the council by which the development consent was granted that the surrender of the development consent has been accepted,

(b) in subparagraph (ii) of that paragraph—cause an appropriate notation to be made in the Authority's records and notify, in writing, the council in whose local government area the land to which the development consent relates is situated that the development consent has been revoked, and

(c) in subparagraph (iii) of that paragraph—cause a copy of the certificate to be filed in the office of the court by which the development consent was granted or, where

it was granted by the Local Government Appeals Tribunal, in the office of the Tribunal.

- (5) A council to whom a notification referred to in paragraph (a) or (b) of subsection (4) is given shall, within seven days after receipt of the notification, notify, in writing, the Authority that it has received the notification.
- (6) The provisions of subsection (1) apply in a case where a disposition of land is rescinded, cancelled, annulled or revoked as to part only of the land and in that case the amount of contribution to be refunded or waived shall be as determined by the Authority.
- (7) Where a contribution in respect of any land is refunded or waived, or the Authority has refrained from assessing any contribution assessable, in respect of any land, in accordance with this section, the land shall be or become liable for any contribution that would have been or become payable had the disposition or development consent, as a consequence of which the land became liable for the contribution that has been refunded, not been made or granted.
- (8) Notwithstanding any other provision of this section the Authority may, of its own motion, waive any contribution assessed, or refrain from assessing any contribution assessable, as a consequence of the granting of a development consent if that development consent has been revoked as referred to in paragraph (a) or (b) of subsection (3) and the development referred to in the development consent has not been commenced or carried out.

#### **17 Liability of council to pay contribution where land sold for overdue rates**

- (1) Where land is, in accordance with the [Local Government Act 1919](#), sold for overdue rates, the liability of the council selling the land to pay contribution payable as a consequence of that sale shall, notwithstanding any other provision of this Act, not exceed the amount payable as contribution under subsection (1) of section 606 of that Act.
- (2) Where the amount of the contribution payable by a council by reason of the operation of subsection (1) is less than the amount of the contribution that would but for that subsection have been payable in respect of the land sold by the council:
  - (a) the council shall, within seven days after the sale of the land, give notice in writing to the Authority specifying:
    - (i) the purchase money payable in respect of the sale, and
    - (ii) the payments required to be made from the purchase money under section 606 of the [Local Government Act 1919](#), and
  - (b) the land shall be or become liable for any contribution that would have been or

become payable had the land not been sold by the council.

- (3) A reference in this section to land being sold includes a reference to land being made the subject of a contract or agreement for sale.

## **18 Right to pay contribution in advance**

- (1) Where declared land has not become liable for contribution under subsection (2) of section 7, the Authority shall, if requested by the owner of the land to do so after the final date referred to in subsection (2) of section 10 and applicable to the land make an assessment of the contribution, if any, payable in respect of that land as if it had become so liable on the date on which the Authority received the request.
- (2) Any contribution assessed under subsection (1) may be paid by any person at any time after the final date referred to in that subsection.
- (3) The provisions of Part 5 do not apply to any contribution assessed under this section.
- (4) The provisions of sections 19 and 20 apply to a person at whose request contribution has been assessed under this section in the same way as they apply to a contributor.
- (5) Any contribution paid under this section in respect of land that had not become liable for contribution under subsection (2) of section 7 on or before 7 February 1973 shall, upon application made to the Authority, be refunded without interest, subject to the Authority being furnished with such securities, releases and indemnities as it may require.

## **19 Amendment of assessments**

- (1) Subject to this section, the Authority may of its own motion or upon an application in writing made by a contributor, amend any assessment by making such alterations therein or additions thereto, or such further alterations therein or additions thereto, as it thinks necessary to ensure that a complete and accurate assessment is made.
- (2) An amendment may be made under subsection (1):
- (a) where:
- (i) an application by a contributor under this section is made within three years after the service of notice of the assessment or any amendment thereof and the contributor has supplied to the Authority within that period or such further period as the Authority allows (whether before or after the expiration of that period) all information required by the Authority for the purpose of deciding the application, or
- (ii) the Authority is of the opinion that a contributor has attempted to evade the payment of contribution by failing to furnish the Authority with complete and accurate information,

at any time, or

- (b) in any other case—within three years after the service of notice of the assessment or of any amendment thereof.

(3) Where:

- (a) an amendment of an assessment has been made in accordance with this section, and
- (b) a period of more than three years has elapsed since the service of notice of the original assessment,

any further amendment of the assessment shall, subject to this section, be limited to the matter, the subject of the prior amendment, notice of which was served within the preceding three years.

(4) Where the amendment of an assessment under this section has the effect that contribution is payable or that an additional amount of contribution is payable:

- (a) the contributor shall be liable to pay the contribution he or she ought to have paid if the assessment had been originally made as amended, reduced by any contribution he or she has paid, and
- (b) the amendment shall, unless it was made with the consent of the contributor, be subject to objection and appeal in accordance with Part 4.

(5) Where an amendment of an assessment has the effect of reducing the amount of contribution payable, the Authority shall refund any contribution overpaid.

## **20 Notice of assessment**

As soon as possible after an assessment or an amendment of an assessment is made, the Authority shall cause notice in writing of the assessment or amended assessment to be served on the contributor liable to pay the contribution assessed.

## **21 Validity of assessment**

The validity of an assessment or notice of an assessment is not affected by reason only that a provision of this Act has not been complied with.

# **Part 4 Objections and appeals**

## **22 Appeal**

- (1) Any person who is assessed for the payment of contribution and who is dissatisfied with the assessment or with any amendment of the assessment, may, within the period referred to in section 25 or within such further period as the Authority allows (whether before or after the expiration of that period) serve on the Authority an



objection, in writing, against the assessment or amendment, stating fully and in detail the grounds on which the person relies.

(2) Notwithstanding subsection (1):

(a) no objection shall be made to the Authority under this Part in respect of so much of any assessment as relates to the valuation of land described or referred to therein, if that valuation is the valuation of the land under this Act, and

(b) no objection may be made to the Authority in respect of an assessment if particulars of that assessment have been included in a certificate under section 56.

(3) The Authority shall consider the objection as soon as possible and may disallow it or allow it, either wholly or in part.

(4) The Authority shall give to the objector written notice of its decision on the objection.

(5) An objector who is dissatisfied with the decision of the Authority may, within twenty-eight days after service of notice of that decision, or within such further time as the Authority allows (whether before or after the expiration of that period), request, in writing, the Authority to treat his or her objection as an appeal and to forward it, as an appeal, to the Court, and the Authority shall, within twenty-eight days of the receipt by it of the request, forward the objection accordingly.

(6) The Court shall have jurisdiction to hear and dispose of appeals forwarded to it under subsection (5).

## **23 Pending appeal not to affect assessment**

(1) The fact that an objection or appeal, in accordance with section 22, or under Part 6, is pending does not interfere with or affect the assessment objected to or appealed from and, subject to this Act, the contribution may be levied and recovered on the assessment as if no objection or appeal were pending.

(2) If the assessment is altered on objection or appeal, a due adjustment shall be made and amounts of contribution paid in excess shall be refunded by the Authority and amounts short-paid shall be recoverable as arrears by the Authority from the contributor.

## **24 Appeals to Court**

(1) An objector shall be limited on the hearing of the appeal to the grounds stated in his or her objection.

(2) If the assessment has been reduced by the Authority after considering the objection, the reduced assessment shall be deemed to be the assessment appealed from.

- (3) On the hearing of the appeal, the Court may make such order as it thinks fit and may reduce, increase or otherwise vary the assessment.
- (4) Except as provided by the [Land and Environment Court Act 1979](#), any such order of the Court shall be final and conclusive and binding on all parties.

#### **24A Objections and appeals as to certain applications under sec 16**

- (1) In this section:

**application** means an application made on or after 8 February 1973:

- (a) under paragraph (a) of subsection (2) of section 16 for the refund or waiver of contribution, where the disposition or development consent as a consequence of which land became liable for that contribution was rescinded, cancelled, annulled or revoked (as referred to in that section) on or after that date, or
- (b) under paragraph (c) of subsection (3) of section 16 for the revocation of a development consent.

**the prescribed period:**

- (a) in relation to an application made before the commencement of the [Land Development Contribution Management \(Amendment\) Act 1973](#)—means the period of sixty days after that commencement, or
  - (b) in relation to an application made after that commencement—means the period of sixty days after the making of the application.
- (2) Where the Authority serves on an applicant a written notice stating that the Authority has decided that, in relation to the application, it is not satisfied as to the matters referred to in paragraph (ei) of subsection (2) of section 16, or in subsection (3A) of section 16, the applicant may serve on the Authority an objection, in writing, against the decision, stating fully and in detail the grounds on which the applicant relies.
  - (3) Where before the expiration of the prescribed period after the making of an application, the Authority:
    - (a) has not granted the application, or
    - (b) has not served on the applicant a written notice stating whether or not the Authority has decided that, in relation to the application, it is satisfied as to the matters referred to in paragraph (ei) of subsection (2) of section 16, or in subsection (3A) of section 16,the Authority shall be deemed to have decided that it is not satisfied as to those matters.
  - (4) The Authority shall consider the objection as soon as possible and may disallow it or

allow it.

- (5) The provisions of subsections (4), (5) and (6) of section 22 apply to and in respect of an objection under this section and the Authority's decision on the objection in the same way as they apply to and in respect of an objection under section 22 and the Authority's decision on such an objection.
- (6) An objector shall be limited on the hearing of the appeal to the grounds stated in the objection.
- (7) On the hearing of the appeal, the Court may make such order as it thinks fit and may reverse the decision of the Authority.
- (8) Except as provided by the [Land and Environment Court Act 1979](#), any such order of the Court shall be final and conclusive and binding on all parties.
- (9) The Authority shall be deemed to have decided that, in relation to an application, it is satisfied as to the matters referred to in paragraph (ei) of subsection (2) of section 16, or in subsection (3A) of section 16, if:
  - (a) the Authority allows an objection under subsection (4), or
  - (b) the Court reverses the decision of the Authority under subsection (7),in relation to the application.

## **Part 5 Collection and recovery of contribution**

### **25 Date of payment of contribution**

- (1) Contribution shown in a notice of assessment shall be due and payable to the Authority by the contributor specified in that notice at the expiration of a period of twenty-eight days after service of that notice.
- (2) Where an assessment is amended in accordance with this Act and additional contribution is thereby payable by the contributor, the additional contribution shall be due and payable to the Authority at the expiration of a period of twenty-eight days after the service of the notice of the amendment of the assessment.

### **26 Additional contribution in case of default**

If contribution or additional contribution on an amended assessment is not paid before the expiration of the time prescribed by section 25, or such further time as is allowed by the Authority under section 27, additional contribution at a rate equal to ten per centum per annum of the amount unpaid shall be payable by the contributor to the Authority by way of penalty in respect of the period commencing from the expiration of the time so prescribed or allowed and ending on the date of payment.

## **27 Extension of time and payment by instalments**

The Authority may, in such cases as it thinks fit:

- (a) extend the time for payment of contribution,
- (b) permit the payment of contribution to be made by such instalments and within such time as it considers the circumstances warrant,
- (c) where it exercises its powers under paragraph (a) or (b), require the contributor to provide security for the contribution payable by the contributor, or
- (d) remit the whole or any part of the additional contribution imposed under section 26.

## **28 Recovery of contribution**

- (1) Contribution shall be deemed, when it becomes due and payable, to be a debt due to Her Majesty and shall be collected and received by the Authority in accordance with this Act.
- (2) Contribution that is unpaid may be recovered as a debt in any court of competent jurisdiction in the name of the Authority or in the name of an officer or servant of the Authority authorised in writing by the Authority to take proceedings for the recovery of, and to recover, contribution.

## **29 Substituted service**

- (1) If in any proceedings against a contributor for the recovery of contribution the defendant:
  - (a) is absent from Australia and has not, to the knowledge of the Authority, after reasonable enquiry in that behalf, any attorney or agent in Australia on whom service of process can be effected, or
  - (b) cannot, after reasonable enquiry, be found,service of any process in the proceedings may, without leave of the court, be effected on the defendant by posting it, or an office copy thereof, addressed to the defendant, at his or her last known place of business or abode in Australia, or by fixing it on a conspicuous part of the land in respect of which the contribution is payable.
- (2) Service of process in accordance with subsection (1) shall be deemed to have been effected at the time it would, in the ordinary course of post, be delivered or when it is fixed on a conspicuous part of the land in respect of which the contribution is payable, as the case may be.

## **30 Provisions where contribution not paid in contributor's lifetime**

The following provisions apply in any case where a contributor, who was a natural person

and has died, escaped, whether intentionally or not, full contribution in his or her lifetime by reason of not having complied with any of the provisions of this Act:

- (a) the Authority shall have the same powers and remedies against the executors or administrators of the contributor in respect of the estate of the contributor as it would have had against the contributor in his or her lifetime,
- (b) the executors or administrators shall furnish such information as the Authority requires for the purpose of a full assessment,
- (c) the amount payable shall (where the contributor's default was intentional) be such amount not exceeding twice the amount of the difference between the contribution so assessed and the amount actually paid by the contributor as the Authority determines, and shall be a first charge on all the contributor's estate in the hands of his or her executors or administrators, and
- (d) no lapse of time shall prevent the operation of this section, and the Authority may take all such proceedings and exercise all such powers and remedies for the purpose of giving effect to this section and recovering the amount payable as in the case of other assessments and contribution.

### **31 Action to recover contribution may be taken at any time**

Any action or remedy for recovery of contribution may be taken at any time, any law to the contrary notwithstanding.

### **32 Default**

- (1) Where a contributor makes default in payment of contribution, then, without in any way releasing the contributor from liability (except to the extent of any payments deemed to be made on the contributor's behalf as referred to in paragraph (b)), the following provisions shall apply as long as the default continues:
  - (a) if the contribution is payable in respect of land subject to any lease or occupied by any person, then the lessee or occupier shall be responsible for the payment of the contribution and it may be recovered from the lessee or occupier as if he or she were the defaulting contributor, and
  - (b) all payments made under this section by a lessee or occupier shall be deemed to be made on behalf of the defaulting contributor.
- (2) The responsibility of the lessee or occupier under this section is limited to any rent or payments due by the lessee or occupier to the contributor at the time of demand made or action brought by or on behalf of the Authority or accruing due from time to time thereafter.
- (3) Any payment to the Authority under this section shall be a valid discharge to the lessee or occupier for rent or payments due by the lessee or occupier to the

contributor as against all other persons whomsoever.

### **33 Contribution between contributors jointly liable**

Where two or more persons are liable for the same contribution payable in respect of any land, they shall each be liable for the whole of that contribution, but any one of them who has paid the contribution:

- (a) may recover from any other person jointly liable with him or her an amount which bears to the amount of contribution so paid the same proportion as the value of the estate or interest in the land of such other person bears to the sum of the values of the estates or interests in the land of all persons liable for that contribution, and
- (b) may:
  - (i) sue for that firstmentioned amount in any court of competent jurisdiction as money paid to the use of that other person at his or her request, or
  - (ii) retain or deduct that firstmentioned amount out of any moneys in his or her hands belonging or payable to that other person.

### **34 Waiver of contribution in cases of hardship**

- (1) Where it is shown to the satisfaction of the Appeals Board that:
  - (a) a natural person liable to pay contribution has suffered such a loss, or is in such circumstances, that the exaction of the full amount of contribution would entail serious hardship, or
  - (b) owing to the death of a person, who, had the person lived, would have been a contributor, the dependants of that person are in such circumstances that the exaction of the full amount of contribution would entail serious hardship,the Appeals Board may waive the payment of the contribution either wholly or in part.
- (2) The Authority shall make such alteration in the amount of contribution payable, and shall make such refund of contribution already paid as is necessary to give effect to a decision of the Appeals Board.

### **35 Writing off contribution**

- (1) Where it is shown to the satisfaction of the Appeals Board that every reasonable effort has been made to recover any amount payable as contribution or that it is impracticable without undue expense to recover any such amount, it may direct that amount to be written off.
- (2) The contributor shall not be released from his or her liability in consequence of any action taken by the Appeals Board under this section, and the Authority may at any future time take such action to recover from that contributor the amount of

contribution written off as it considers the circumstances warrant.

### **36 Appeals Board's powers may be exercised by the Secretary of the Authority in certain cases**

The Secretary of the Authority may exercise all the powers of the Appeals Board under sections 34 and 35 in any case where the amount of contribution involved does not exceed forty dollars.

### **37 Definition of contribution for certain purposes**

For the purposes of:

- (a) sections 34 and 35, contribution includes any costs incurred in attempting to recover contribution, and
- (b) sections 27, 28, 29, 31, 32, 33, 34, 35, 36 and 38, contribution includes additional contribution whether by way of penalty or otherwise.

### **38 Contribution to be a first charge on land**

- (1) Contribution payable in respect of any land shall until it is paid be a first charge on that land in priority over all other encumbrances whatever, and notwithstanding any disposition of the land but subject to subsection (2) it shall continue to be liable in the hands of any purchaser or other holder for any contribution charged on it so long as the contribution remains unpaid.
- (2) Where any land (in this subsection referred to as a **portion**) is disposed of and that land formed part of land (in this subsection referred to as the **whole parcel**) which immediately before the disposition was subject to a charge for an amount (in this subsection referred to as the **total charge**) under this section:
  - (a) the portion shall be subject to a charge (as referred to in subsection (1)) for such amount as bears to the total charge the same proportion as the base date valuation of that portion bears to the base date valuation of the whole parcel, and
  - (b) the residue of the whole parcel shall be subject to a charge (as referred to in subsection (1)) for amount equal to the difference between the total charge and the charge to which the portion is subject by virtue of paragraph (a), in addition to any other charge to which the portion or residue of the whole parcel may become liable.
- (3) A certificate under section 56 is, for the purpose of determining the amount of a charge on any declared land as at any date, conclusive evidence in favour of any person referred to in subsection (3) of that section that as at the date specified in the certificate there was no charge on the land other than a charge arising out of any matter specified in the certificate.

## **Part 6 Valuation of lands**

### **39 Valuations**

- (1) For the purposes of this Act, value in relation to land means the amount, as determined by the valuer-general, that the fee simple of the land (including any improvements thereon or appertaining thereto) unencumbered by any mortgage and not subject to any lease but subject to any reservations, restrictions, covenants, easements or rights in the nature of easements that affect the land at the date as at which the determination is made, might be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require.
- (2) A reference in subsection (1) to reservations, restrictions, covenants, easements or rights in the nature of easements that affect land does not include a reference to any reservation, restriction, covenant or easement or any such right imposed or created after the base date unless:
  - (a) it was imposed or created pursuant to the provisions of an Act,
  - (b) it is an easement or restriction of the nature referred to in paragraph (a) of subsection (1) of section 88A of the [Conveyancing Act 1919](#),
  - (c) it is a covenant in favour of the Crown or of any public or local authority constituted by or under an Act, or
  - (d) it is one of a class or description of reservations, restrictions, covenants, easements or rights in the nature of easements prescribed for the purposes of this section.

### **40 Valuer-general to make base date valuations**

- (1) A valuation, as at the base date, may be made by the valuer-general at any time in respect of any land within the non-urban Sydney region and shall, as soon as practicable, be made by the valuer-general in respect of all declared land.
- (2) For the purposes of this Part, the valuer-general or the Court in determining what improvements were on or appertained to land at the base date may, without limiting the evidence that the valuer-general or the Court may take into account, take into account such evidence by way of aerial photographs, which the valuer-general or the Court is satisfied were made within a reasonable period after the base date, as the valuer-general or the Court thinks fit.

### **41 Interested persons may obtain base date valuation**

- (1) A person who is the owner of declared land may apply, on a form provided by the valuer-general for the purpose, for a base date valuation in respect of the land and the valuer-general shall, on payment of the prescribed fee, furnish that person with that



valuation.

- (2) Subsection (1) does not apply in relation to land that is prescribed land within the meaning of section 56A.

#### **42 Valuations at other dates**

- (1) As soon as practicable after the valuer-general has received a request therefor from the Authority, the valuer-general shall:
- (a) in respect of any land disposed of as referred to in paragraph (a), (b), (c), (d), (e) or (f) of subsection (3) of section 7, make a valuation of that land as at the date specified in the request as being the date on which the land was so disposed of, and
  - (b) in respect of any land that has become liable for contribution calculated on the leviable increase in the value of the land, make a valuation of that land as at the date specified in the request as being the final date referred to in subsection (2) of section 10 and applicable to that land.
- (2) The valuer-general shall, in making a valuation of the land referred to in a request made under subsection (1), disregard such of the relevant matters, specified in subsection (3) and relating to that land:
- (a) as the valuer-general's records disclose occurred in relation to the land after the base date and were carried out, erected, or made by or on behalf of any owner of the land and at the owner's expense, and
  - (b) as would, but for this subsection, have resulted in an increase in the valuation.
- (3) The relevant matters for the purposes of subsection (2) are:
- (a) reclamation by draining or filling and the construction of any retaining walls or other works appurtenant to the reclamation,
  - (b) the excavation, grading, levelling or draining of the land,
  - (c) any easement for the benefit of the land,
  - (d) roading, kerbing, guttering, footpaths and other subdivisional works,
  - (e) works of water supply or sewerage, and
  - (f) any building, structures, works or other improvements on or appertaining to the land, whether of the same or of a different kind.
- (4) Where land is disposed of as referred to in paragraph (a), (b), (c), (d), (e) or (f) of subsection (3) of section 7, the Authority shall, if the contributor so requests, request the valuer-general to make a valuation of the land under paragraph (a) of subsection

(1).

#### **43 Apportionment and amalgamation of valuations**

(1) Where:

- (a) a valuation, as at the base date, of any land (in this subsection referred to as a **portion**) is required for the purposes of this Act, and
- (b) a valuation, as at that date, has been made of land (in this subsection referred to as the **whole parcel**) of which that portion forms part,

the valuer-general shall, notwithstanding any other provision of this Act, make the required valuation of that portion by assigning to it a value equal to an amount that bears to the base date valuation of the whole parcel the same proportion as the valuation, as at the base date, of that portion (regarded as being part of the whole parcel) bears to the base date valuation of the whole parcel.

(2) Where:

- (a) a valuation, as at the base date, of any land (in this subsection referred to as an **amalgamated parcel**) is required for the purposes of this Act, and
- (b) a valuation, as at that date, has been made of parcels of land that comprise the whole of the amalgamated parcel,

the valuer-general shall, notwithstanding any other provision of this Act, make the required valuation of the amalgamated parcel by assigning to it a value equal to the sum of the valuations of the parcels referred to in paragraph (b).

(3) Where any parcel of land referred to in paragraph (b) of subsection (2) is part of land in respect of which a valuation, as at the base date, has been made, the valuer-general may, for the purpose of making a valuation of the amalgamated parcel as referred to in paragraph (a) of that subsection, make a valuation of that part in accordance with subsection (1).

(4) Where:

- (a) a valuation of any land (in this subsection referred to as a **portion**), as at the final date referred to in subsection (2) of section 10 and applicable to that land, is required for the purposes of this Act, and
- (b) a valuation, as at that date, has been made of land (in this subsection referred to as the **whole parcel**) of which that portion forms part,

the valuer-general shall, notwithstanding any other provision of this Act, make the required valuation of that portion by assigning to it a value equal to an amount that bears to the valuation referred to in paragraph (b) the same proportion as the

valuation, as at that final date, of that portion (regarded as being part of the whole parcel) bears to the valuation so referred to.

- (5) Notwithstanding any other provision of this Part, no objection or appeal, on the ground that the value assigned is too high or too low, shall be allowed against a valuation purporting to have been made in accordance with subsection (1), (2) or (4) except on the ground that the value assigned is too high or too low by reason that the valuer-general, in making the valuation, has not complied with the provisions of such of those subsections as is applicable to the making of the valuation.

#### **44 Notice of valuation**

- (1) The valuer-general shall give notice in writing of each valuation to the Authority and, if the valuer-general is aware of the name and address of the owner of the land to which the valuation relates, to that owner.
- (2) A notice of valuation given in accordance with subsection (1) shall include a statement to the effect that the Authority or owner of the land may lodge with the valuer-general written objection to the valuation within a period of twenty-eight days after service of the notice or within such further period as the valuer-general allows, whether before or after the expiration of that period.

#### **45 Absence of notice does not invalidate valuation**

A valuation is not invalid by reason only of the failure of the valuer-general to give notice of the valuation.

#### **46 Objections to valuations**

- (1) Where a valuation of land has been made, the Authority or the owner of the land may lodge with the valuer-general written objection to the valuation, in or to the effect of the form of objection provided by the valuer-general, within a period of twenty-eight days after service of the notice of valuation or within such further period as the valuer-general allows whether before or after the expiration of that period.
- (2) Where the Authority lodges an objection in accordance with subsection (1), it shall give notice in writing of the objection to all contributors liable in respect of the land or, where liability for contribution has not arisen, to the owner of the land the subject of the valuation, if the Authority is aware of the name and address of those contributors or of that owner.
- (3) The only grounds on which objection to valuation may be made are:
- (a) that the values assigned are too high or too low,
  - (b) that the description of the land the subject of the valuation is not correctly stated,  
and

(c) that, in the case of a valuation made in compliance with a request made under subsection (1) of section 42, any relevant matters that the valuer-general would have been required to disregard had the valuer-general's records disclosed their occurrence have not been disregarded in making the valuation.

(4) Notwithstanding subsection (1) no objection may be made to a valuation if particulars of an assessment based on that valuation have been included in a certificate under section 56.

#### **47 Procedure on objection**

(1) On objection being made to a valuation, the valuer-general may:

- (a) alter the valuation and alter the record of the valuation accordingly, or
- (b) disallow the objection.

(2) The valuer-general shall give notice in writing of his or her determination made in accordance with subsection (1) to the objector and, if the objector is not the Authority, to the Authority.

(3) Where the Authority receives notice in accordance with subsection (2) as an objector, it shall give notice in writing of the valuer-general's determination to the contributors liable in respect of the land to which the valuation objected to applies or, where liability for contribution has not arisen, to the owner of the land to which the valuation objected to applies, if the Authority is aware of the name and address of those contributors or of that owner.

#### **48 Appeals to Court**

(1) Where:

- (a) any person is dissatisfied with a determination made by the valuer-general upon the person's objection to a valuation,
- (b) any person entitled to object to a valuation is dissatisfied with a determination made by the valuer-general upon the Authority's objection to that valuation, or
- (c) the Authority is dissatisfied with a determination made by the valuer-general upon an objection to a valuation,

he or it may, within a period of twenty-eight days after the giving of a notice to that person or the Authority under subsection (2) or (3) of section 47, whichever is applicable, appeal to the Court against the determination in the manner prescribed by rules of court.

(2) Notice of appeal shall be given by the appellant to the valuer-general upon the lodging of the appeal in the Court.

#### **49 Hearing by Court**

- (1) The Court shall have jurisdiction to hear and dispose of appeals made under section 48.
- (2) Any such appeal shall proceed as a new matter and be by way of rehearing.
- (3) If, on appeal, the Court decides that any valuation objected to or any valuation as altered on objection is erroneous, it shall order the valuation to be altered accordingly.
- (4) An appeal under section 48 and an appeal under Part 4 may be heard and determined together.

#### **50 Consequential procedure**

- (1) The Registrar of the Court shall furnish to the valuer-general a certified copy of the order referred to in section 49.
- (2) The valuer-general shall, where necessary, amend any valuation to the extent necessary to give effect to the order.

#### **51 Record of valuations**

- (1) The valuer-general shall keep a record of valuations under this Part in such form as the valuer-general determines and shall include therein such particulars as the valuer-general considers appropriate.
- (2) The record kept for the purposes of subsection (1) may, without limiting the generality of that subsection, be kept by making use of a computer so that a visual record of valuations is produced by operating the computer.

#### **52 Amendments**

The valuer-general may alter or cause to be altered the record of valuations referred to in section 51 whenever any sufficient cause renders alteration necessary.

#### **53 Valuer-general may enter and inspect land and require information**

- (1) The valuer-general or an official valuer, or officer, appointed under the [Valuation of Land Act 1916](#) or a Judge or an assessor of the Court may at all reasonable times, enter, for the purposes of this Part, any land.
- (2) Where a person enters land in pursuance of subsection (1), the owner, occupier or manager thereof shall answer any questions put by that person for the purpose of enabling a correct valuation to be made and, when required by that person to do so, generally furnish to that person all information within his or her knowledge or in his or her possession that is necessary for that purpose.
- (3) The valuer-general may, by notice in writing served on the owner of any land within

the Sydney region, require that owner, within such reasonable time as may be specified in the notice, to furnish to the valuer-general such information and to produce to the valuer-general such documents relating to the land as may be required by the valuer-general for the purposes of this Part and as may be specified in the notice, whether generally or otherwise.

- (4) Without limiting the generality of subsection (3), a notice referred to in that subsection may:
- (a) require information as to any one or more of the following matters:
    - (i) the area, portions, lots, deposited plans, references to title, situation, quality and use of the land the subject of the request,
    - (ii) the nature of the improvements thereon,
    - (iii) any of the matters specified in subsection (3) of section 42,
    - (iv) any reservations, restrictions, covenants, easements or rights in the nature of easements affecting the land, or
  - (b) require the production of any contract, or a copy of any contract, for the purchase of the land, any instrument incorporated or referred to in any such contract and any instrument or option relating to the purchase of the land by the owner, where the contract, copy, instrument or option is in the owner's possession or control.
- (5) Where an owner of land is not resident in the State, or is a corporation, the valuer-general may serve a notice referred to in subsection (3) on the manager, secretary, agent or attorney of the owner and the person on whom the notice is served shall comply with the requirements of the notice as if the person were the owner.
- (6) A person shall not neglect or refuse to comply with the requirements of a notice served on the person under this section.
- (7) A person shall not:
- (a) in answer to any question put to the person under subsection (2) knowingly give an answer that is false or misleading in a material particular, or
  - (b) furnish any information required of the person under that subsection or pursuant to a notice served on the person under subsection (3) that is false or misleading in a material particular.
- (8) A person shall not, after conviction for an offence arising under this section, continue to neglect or refuse to comply with the requirement for the non-compliance with which the person was convicted.

Maximum penalty: 20 penalty units and the amount of any contribution, payment of

which the offender has evaded or has attempted to evade.

- (9) It is a sufficient defence to a prosecution for an offence arising under subsection (7) if the defendant proves that he or she believed the truth of the answer or information given by the defendant and that it was given in good faith.
- (10) A prosecution for an offence arising under this section may be commenced at any time.

## **Part 7 Finance**

### **54 The Fund**

- (1) All moneys received by the Authority under this Act shall be deposited in the State Planning Authority Account in the Special Deposits Account in the Treasury referred to in subsection (1) of section 30 of the [State Planning Authority Act 1963](#), and all amounts required to meet expenditure incurred in accordance with the provisions of this Act shall be paid from that account.
- (2) For the purposes of this Act, the Authority shall establish in its books of account a fund to be known as the Land Development Contribution Fund.
- (3) The Fund shall consist of:
  - (a) all moneys received or receivable by the Authority under this Act,
  - (b) moneys provided by Parliament for the purposes of this Act and moneys advanced for the purposes of this Act out of moneys provided by Parliament for the purpose of making advances,
  - (c) the proceeds of the disposition of any property acquired by the Authority out of moneys applied from the Fund, and
  - (d) all assets acquired out of money applied from the Fund.
- (4) The Fund may be applied to any of the following purposes:
  - (a) meeting the administrative expenses of the Authority and the valuer-general under this Act,
  - (b) making such payments to such persons as the Treasurer determines, after considering a recommendation by the Authority, for the purposes of, or in connection with, the provision of:
    - (i) water, sewerage and drainage services,
    - (ii) roads and bridges,
    - (iii) rail services and other transport facilities, or

- (iv) other public services approved by the Treasurer,  
in relation to the non-urban Sydney region,
  - (c) the acquisition of land for any purpose referred to in paragraph (b) or the acquisition of land within the non-urban Sydney region for any other public purpose approved by the Treasurer where the Treasurer considers that the land should be made available in the public interest for that purpose,
  - (d) repaying advances paid into the Fund as referred to in paragraph (b) of subsection (3),
  - (e) meeting any payment required to be made by the Authority under this Act, and
  - (f) meeting the liabilities of the Fund.
- (5) Subsection (11) of section 36 of the *State Planning Authority Act 1963* does not apply to or in relation to the acquisition of land by the Authority out of moneys applied from the Fund.

## **55 Accounts and audit**

- (1) The provisions of Division 1 of Part 7 of the *State Planning Authority Act 1963* extend to the Fund in the same way as they apply to a fund referred to in that Division and as if the statement of accounts referred to in section 58 of that Act were a statement of accounts in respect of the Fund.
- (2) The expenditure of the Fund shall be charged against income and capital as nearly as may be in accordance with commercial principles.

## **Part 8 Evidence**

### **56 Authority to issue evidentiary certificates in respect of certain matters**

- (1) Upon receipt of an application in writing made by a person in accordance with a form provided by the Authority for the purpose and upon payment of the fee therefor fixed in accordance with section 42 of the *State Planning Authority Act 1963*, the Authority shall furnish to the applicant, in relation to any land, a certificate containing information in relation to the following matters as at the date of the certificate:
  - (a) whether or not the land is within the non-urban Sydney region,
  - (b) whether or not an order has been published under section 11 applying to the land and, if an order has been so published, the date thereof,
  - (c) whether or not an interim development order or a planning scheme, referred to in subsection (2) of section 10, applies to the land,
  - (d) the amount, if any, of contribution assessed in respect of the land or any part of



the land or any land of which the land the subject of the certificate forms part,

(e) particulars of:

- (i) any disposition of land that is a disposition for the purposes of subsection (3) of section 7, or
- (ii) any development consent referred to in subsection (2) of that section, of which the Authority has notice,

where any contribution payable as a consequence of that disposition or the granting of that development consent has not been assessed,

- (f) the amount, if any, of contribution paid in respect of the land or in respect of which satisfactory arrangements for payment have been made with the Authority and the particulars of its assessment,
- (g) the amount, if any, of contribution waived under section 34, or written-off under section 35,
- (h) whether the land has ceased to be liable for contribution,
- (i) whether:
  - (i) an objection against an assessment in respect of the land, or against a valuation upon which such an assessment has been based, has been lodged,
  - (ii) an appeal resulting from such an objection is pending,
  - (iii) an application for an amendment of any such assessment has been made, or
  - (iv) action has been commenced by the Authority to amend any such assessment, and has not been finally determined or completed, and
- (j) such other matters as may be prescribed.

(2) A reference in paragraph (d), (e) or (f) of subsection (1) to contribution does not include a reference to any contribution, or that part of any contribution, that is not payable by reason of a determination made under section 15, or under section 61, or has been refunded or waived under section 16.

(3) A certificate issued under this section is, for the purposes of determining a person's liability for contribution, conclusive evidence:

- (a) where the applicant for the certificate is the owner of the land to which the certificate relates—in favour of that applicant and of any successor in title of the applicant who is a bona fide purchaser for value of the land, or
- (b) where the applicant is not the owner of the land to which the certificate

relates—in favour of that applicant and, if he or she becomes the owner of the land, of any successor in title who is a bona fide purchaser for value of the land, of the information specified in the certificate as at the date so specified.

- (4) A certificate under subsection (1) may be issued under the signature of a prescribed servant of the Authority or of a servant of the Authority who is the holder of, or person acting in, a prescribed office.
- (5) Subsection (3) does not operate:
  - (a) where the certificate contains information other than information negating the matters referred to in paragraph (i) of subsection (1) in relation to an assessment, so as to make the certificate conclusive evidence of that assessment, of the amount of that assessment or of the payment, or the making of satisfactory arrangements for the payment, of the contribution payable under that assessment,
  - (b) in relation to any certificate that was obtained by misrepresentation or by fraudulent or improper means to which the applicant for the certificate was privy, or
  - (c) in favour of an applicant for a certificate where any information specified in the certificate was to the knowledge of the applicant erroneous as at the date on which the certificate was issued.
- (6) Nothing in this section requires the Authority to furnish a certificate under this section as to any contribution paid or payable in respect of any land if the Authority is of the opinion that the amount of that contribution could be altered as a consequence of any proceedings taken or that may be taken under this Act.
- (7) In this section:

**contribution** includes any additional contribution payable under section 26.

**purchaser** includes a mortgagee.

#### **56A Conclusive presumption as to prescribed land**

- (1) In this section, **prescribed land** means such land within the non-urban Sydney region as is specified or described in the regulations as being prescribed land for the purposes of this section.
- (2) It shall be conclusively presumed that, as at the date on which any land becomes prescribed land:
  - (a) so much thereof as is, or has at any time been, declared land has ceased to be liable for contribution, and

- (b) no order applying to any part of the remainder thereof has been published under section 11.

## **57 Evidence of maps or plans**

- (1) A copy or extract of a map or plan referred to in this Act or in an order under section 11 and filed in the office of the Authority shall be admissible in evidence if it purports to be certified under the hand of the Secretary of the Authority to be a true copy or extract.
- (2) A copy or extract of a map or plan certified in accordance with subsection (1) may be on the same scale as or on a scale different from that on which the map or plan is drawn.
- (3) The Secretary of the Authority shall furnish a certified copy or extract to any person applying for it upon payment of such fee as is fixed in any particular case by the Authority.
- (4) Unless the court otherwise directs, it is sufficient compliance with a subpoena for the production in the court of a map or plan referred to in this Act or in an order under section 11 if a copy of the map or plan certified in accordance with subsection (1) is produced.

## **58 Evidence of assessments and valuations**

- (1) The production of an assessment, or of a document that purports to be a copy of an assessment or notice of an assessment and to be under the hand of the Secretary of the Authority, or of a delegate of the Authority, shall:
  - (a) be conclusive evidence of the making of the assessment, and
  - (b) be conclusive evidence that the amount and all the particulars of the assessment are correct, except in proceedings on appeal against the assessment, when it shall be prima facie evidence only.
- (2) Production of any document under the seal of the Authority or under the hand of the Secretary of the Authority, or of a delegate of the Authority, purporting to be a copy of or extract from any information furnished in accordance with section 69 or an assessment or notice of an assessment, shall for all purposes be evidence of the matter therein set forth without production of the original.
- (3) Where the Authority so requests, or application is made by a person who objected or was entitled to object to a valuation and is accompanied by the prescribed fee, the valuer-general shall, in such form as he or she may determine, furnish to the Authority or to that person a certified copy under seal of any notice of that valuation given under section 44 and, where any amendment of that valuation has been made in accordance with subsection (2) of section 50, endorse on that copy particulars of that

amendment.

- (4) Any certified copy of a notice of valuation under seal furnished under subsection (3) shall in all proceedings and for all purposes be evidence of the matters and things stated therein and that the valuation mentioned therein has been duly made in accordance with this Act.

## **Part 9 General**

### **59 Appeals Board**

- (1) For the purposes of this Act there shall be an Appeals Board which shall consist of the Secretary of the Authority, the Auditor-General and the Under Secretary of the Treasury.
- (2) A member of the Appeals Board may, by writing under his or her hand, appoint a person to act in his or her place at any meeting of the Appeals Board at which he or she is unable to be present, and that person, when so acting, shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed by this Act upon the member by whom he or she was appointed.

### **60 Authority to be notified of development for which consent not required**

- (1) A person shall not, after the final date referred to in subsection (2) of section 10, and applicable to any land, commence to carry out, on or in relation to that land, any development for which a development consent is not required under the provisions of the [Local Government Act 1919](#), or of any planning scheme or interim development order unless before doing so the person has notified the Authority in writing of his or her intention to do so.

Maximum penalty: 20 penalty units.

- (2) Subsection (1) does not apply so as to require a person to notify the Authority of his or her intention to commence to carry out development where, were a development consent required to enable the development to be lawfully carried out, no contribution would be payable as a consequence of the granting of that development consent.
- (3) When a council's approval (not being a development consent) is, under the provisions of any Act, ordinance or regulation, required before a person commences to carry out any development as referred to in subsection (1) and is given (whether or not subject to conditions), the council shall, within fourteen days after giving the approval, notify the Authority in writing that it has done so.
- (4) Where:
  - (a) the Authority receives a notification referred to in subsection (1) relating to any development or, without having received such a notification, receives a

notification referred to in subsection (3) relating to that development, or

- (b) any development, notification of which is required to be given to the Authority under subsection (1), is commenced without any such notification, or notification under subsection (3) relating to the development, having been received by the Authority,

a development consent shall, for the purposes of this Act, be deemed to have been granted on the date on which the notification was received by the Authority or the development was commenced to be carried out, as the case may be, in respect of the land on which the development referred to in the notification is proposed to be carried out or on which the development was commenced to be carried out, as the case may be.

## **61 Contribution payable where illegal development carried out**

- (1) Where a person has commenced to carry out development on any declared land and:

- (a) the carrying out of that development was prohibited by any planning scheme or interim development order, or
- (b) the carrying out of the development was permissible only with the consent of the responsible authority under any planning scheme or with the consent of any person whose consent to the carrying out of the development is required under any interim development order, and that consent was not obtained before the carrying out of the development was commenced or was so obtained but was revoked as referred to in subsection (3) of section 16,

contribution shall be assessed:

- (c) where the development was commenced to be carried out before the final date referred to in subsection (2) of section 10 and applicable to the land—as if that person had disposed of the land on the date on which the development was so commenced for a consideration of an amount of money equal to the value of the land as at that lastmentioned date, and
- (d) where the development was commenced to be carried out on or after that final date and the land had not become liable for contribution after that final date under subsection (2) of section 7—as if a development consent to the carrying out of the development had been granted to that person on the date on which the carrying out of the development was commenced.

- (2) Where:

- (a) a person is liable to be assessed for contribution under this section, and
- (b) an application for a determination to be made under this subsection is made to the Authority by the person who would but for this subsection be liable to pay the

contribution,

the Authority may:

- (c) if it is satisfied that the development commenced to be carried out by that person was or is of such a nature and was or is being carried out in such circumstances or affected or affects such a small portion of the land on which it was or is being carried out that it would not be reasonable to require payment of the contribution in full or in part, determine that no part of that contribution or that only such part of that contribution as it considers reasonable shall be payable, or
  - (d) if it is not so satisfied, determine that the whole of that contribution shall be payable.
- (3) Any applicant for a determination under subsection (2) who is dissatisfied with the determination made by the Authority on the application may, within the prescribed time, appeal to the Appeals Board against the determination and the decision of that Board on the application shall be final and conclusive and shall have effect as if it were the determination of the Authority.
- (4) Where a determination, other than a determination that the whole of the contribution shall be payable, is made under subsection (2) or (3) relating to the contribution in respect of any land:
- (a) the land shall be or become liable for any contribution that would have been or become payable had the carrying out of the development not been commenced, and
  - (b) the Authority shall:
    - (i) include in the notice of assessment of the contribution a statement specifying the particulars of the determination, and
    - (ii) serve a copy of that assessment on the council in whose area the land is situated.

## **62 Injunction may be obtained by Authority to prevent development where contribution not paid**

An injunction may be obtained by the Authority to prevent the carrying out, or the continuance of the carrying out, of any development on any declared land where any contribution payable in respect of that land has not been paid or arrangements satisfactory to the Authority have not been made for the payment of that contribution.

## **63 Operation of Act in relation to the Crown and statutory bodies**

- (1) The same contribution shall be paid by the Crown and by any body corporate that is constituted by or under any Act and is deemed by that or any other Act to be a

statutory body representing the Crown or to represent the Crown as would be payable if this Act applied to and bound the Crown and any such body corporate, and the Authority may make and issue an assessment for any contribution payable under this subsection in the same way as it may make and issue assessments for contribution payable by other persons.

- (2) Where any act, matter or thing would, if this Act applied to and bound the Crown and any body corporate referred to in subsection (1), be required to be done or omitted to be done by the Crown or any such body corporate that act, matter or thing shall be done or be omitted to be done by the Crown or that body corporate.
- (3) For the purposes of this section, development shall be deemed to have been carried out by the Crown or by any body corporate referred to in subsection (1) if land owned by the Crown or such a body corporate is lawfully divided for the purpose of disposing of the land or any part thereof.
- (4) Where any dispute arises between the Crown or any body corporate referred to in subsection (1) and the Authority as to any contribution payable by the Crown or any such body corporate or as to the obligation of the Crown or any such body corporate to do or refrain from doing any act, matter or thing in compliance with the requirements of subsection (2), the dispute may be referred to the Premier for decision and the Premier's decision on the dispute shall be final and shall be given effect to.

#### **64 Secrecy**

- (1) A person who is acting or at any time has acted in the administration of this Act shall not, either directly or indirectly, except for the purposes of the administration of this Act, make a record of or divulge or communicate to any person any information acquired by the person in respect of the affairs of any other person disclosed or obtained under the provisions of this Act.

Maximum penalty: 5 penalty units or imprisonment for twelve months.

- (2) A person acting in the administration of this Act shall not be required to produce in any court any notice, return, assessment or notice of assessment, or divulge or communicate to any court any matter or thing coming under the person's notice in the course of the person's duties in connection with the administration of this Act except when it is necessary to do so for the purposes of carrying into effect the provisions of this Act.
- (3) Any person appointed or employed in the administration of this Act shall, if and when required by the Authority to do so, make an oath or declaration in the manner and form prescribed, to maintain secrecy in conformity with the provisions of this section.
- (4) Notwithstanding anything contained in this section the Authority may divulge or

communicate any information which comes to its knowledge in the performance of its powers, authorities, duties or functions under this Act to the Commissioner of Taxation, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation of the Commonwealth and the divulging or communicating of such information shall not be deemed to be a contravention of this section.

## **65 Agents and trustees**

With respect to every agent, and with respect also to every trustee, the following provisions shall apply:

- (a) He or she shall be answerable as contributor for the doing of all such things as are required to be done by virtue of this Act in respect of the land controlled or held by him or her in his or her representative capacity and for the payment of contribution thereon.
- (b) He or she shall in respect of that land furnish information and be assessed thereon but in his or her representative capacity only, and that information and assessment shall, except as otherwise provided by this Act, be separate and distinct from any other.
- (c) If he or she is the trustee of the estate of a deceased person, the information shall be the same, as far as practicable, as the deceased person, if living, would have been liable to furnish.
- (d) Where as agent or trustee he or she pays contribution, he or she is hereby authorised to recover the amount so paid from the person on whose behalf he or she paid it, or to deduct it from any money in his or her hands belonging to that person.
- (e) He or she is hereby authorised and required to retain from time to time, out of any money which comes to him or her in his or her representative capacity, so much as is sufficient to pay the contribution which is or will become due in respect of the land.
- (f) He or she is hereby made personally liable for the contribution payable in respect of the land if, while the contribution remains unpaid, without the consent in writing of the Authority he or she alienates, mortgages, charges, or disposes of any real or personal property, which is controlled or is held by him or her in his or her representative capacity, but he or she shall not otherwise be personally liable for the contribution.
- (g) If he or she is a trustee, he or she may raise whatever moneys are necessary in order to pay the contribution by mortgage or charge with or without power of sale of any real or personal property held by him or her as trustee, and may apply the money so raised or any other moneys in his or her possession as such trustee in paying the contribution.
- (h) He or she is hereby indemnified for all payments which he or she makes in pursuance of this Act, or by requirements of the Authority.



- (i) For the purpose of ensuring payment of contribution, the Authority shall have the same remedies against all land or other property of any kind vested in or under the control or management or in the possession of any agent or trustee, as it would have against the land or other property of any other contributor in respect of contribution, and in as full and ample a manner.

#### **66 Contracts to evade contribution void**

Every contract, agreement or arrangement made or entered into, in writing or orally, whether before or after the commencement of this Act, is, so far as it has or purports to have the purpose or effect of in any way directly or indirectly:

- (a) altering the incidence of any contribution,
- (b) relieving any person from liability to pay any contribution or furnish information,
- (c) defeating, evading or avoiding any duty or liability imposed on any person by this Act, or
- (d) preventing the operation of this Act in any respect,

absolutely void, as against the Authority, or in regard to any proceeding under this Act, but without prejudice to such validity as it has in any other respect or for any other purpose.

#### **67 Access to lands, buildings etc**

The Authority or any officer or servant of the Authority authorised in writing by it in that behalf shall at all reasonable times have full and free access to all lands, buildings, places, books, documents and other papers and to all registers of deeds or other documents of title for any of the purposes of this Act and may make extracts from or take copies of such books, documents, papers or registers.

#### **68 Service of notices**

- (1) Any notice or document required or authorised by this Act to be served or given shall be deemed to have been duly served or given:
  - (a) if delivered personally to, or if left at the last known place of abode or business in or out of the State of, the person on or to whom the notice or document is to be served or given, or
  - (b) if sent by prepaid letter post, addressed to the person on or to whom the notice or document is to be served or given to the person's last known place of business or abode in or out of the State.
- (2) Service of a notice or document in accordance with paragraph (b) of subsection (1) shall be deemed to have been effected at the time when it would be delivered in the

ordinary course of post.

- (3) The provisions of this section, of section 29, and of subsection (5) of section 53, so far as they relate to the service of notices or documents on companies, are in addition to and not in derogation from the provisions of sections 109X and 601CX of the [Corporations Act 2001](#) of the Commonwealth.

## **69 Power to obtain evidence**

- (1) The Authority or any officer or servant of the Authority authorised in writing by it in that behalf may, by notice in writing, served on any person, whether a contributor or not, require that person:
- (a) within such reasonable time as may be specified in the notice, to furnish to the Authority or other person making the requirement such information and to produce to the Authority or that other person such books, documents or other papers, in the person's possession or control, as may be required for the purpose of the administration of this Act and as may be specified in the notice, whether generally or otherwise, or
  - (b) to attend at a time and place specified in the notice before a person appointed in writing by the Authority for the purpose and thereafter from time to time as required by that person and to give evidence concerning any declared land or assessment, and to produce all such books, documents or other papers in the person's possession or under the person's control as may be required for the purpose of the administration of this Act and as may be specified in the notice, whether generally or otherwise.
- (2) A person appointed as referred to in paragraph (b) of subsection (1), may, subject to section 13 of the [Oaths Act 1900](#), require any such evidence to be given on oath, and either in writing or orally and for that purpose that person may administer an oath.
- (3) A person shall not neglect or refuse to comply with the requirements of a notice served on the person under this section.
- (4) A person shall not:
- (a) furnish any information referred to in paragraph (a) of subsection (1) required of the person pursuant to a notice served on the person under that subsection that is false or misleading in a material particular, or
  - (b) give any evidence before a person appointed as referred to in paragraph (b) of that subsection that is false or misleading in a material particular.
- (5) A person shall not, after the person's conviction for an offence arising under subsection (3) by reason of the person's neglect or refusal to furnish any information referred to in paragraph (a) of subsection (1), continue to neglect or refuse to furnish

that information.

Maximum penalty: 20 penalty units and the amount of any contribution, payment of which the offender has evaded or attempted to evade.

- (6) It is a sufficient defence to a prosecution for an offence arising under subsection (4) if the defendant proves that he or she believed the truth of the information or evidence given by the defendant and that it was given in good faith.
- (7) A prosecution for an offence arising under this section may be commenced at any time.
- (8) The regulations may prescribe scales of expenses to be allowed to persons for attending and giving evidence under this section.

## **70 Failure to furnish information**

- (1) Any contributor who refuses or neglects duly to furnish any information as and when required by or under this Act by the Authority or by a person authorised by it shall, if he or she has not been prosecuted for an offence arising under section 69 or 74 by reason of his or her refusal or neglect to so furnish that information, be liable to pay additional contribution at the rate of ten per centum per annum upon the amount of any contribution assessable to him or her (such percentage to be calculated for the period commencing on the last day allowed for furnishing the information and ending on the day upon which the information is furnished or the day upon which assessment is made, whichever first happens), or the sum of four dollars, whichever is the greater.
- (2) Notwithstanding subsection (1), the Authority may, in any particular case, for reasons which it considers sufficient, remit the additional contribution payable under that subsection, or any part thereof.

## **71 (Repealed)**

## **72 Report to Parliament**

The Authority shall furnish to the Minister annually for presentation to Parliament a report on the working of this Act.

## **73 Regulations**

- (1) The Governor may make regulations for or with respect to:
  - (a) the forms to be used for the purposes of this Act,
  - (b) the fees to be paid in respect of any application or request made under this Act, and
  - (c) prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for giving

effect to this Act.

- (2) Different regulations may be made according to different circumstances.
- (3) The regulations may impose a penalty not exceeding 4 penalty units for any breach thereof.

#### **74 Evading contribution**

Any person who, by any wilful act, default, or neglect, or by any fraud, art, or contrivance whatever evades or attempts to evade assessment or payment of contribution, is guilty of an offence against this Act.

Maximum penalty: 20 penalty units and the amount of contribution, payment of which the offender has evaded or attempted to evade.

#### **75 Obstruction**

A person shall not obstruct or hinder any other person acting in the exercise or discharge of any powers, authorities, duties or functions, conferred or imposed by or under this Act.

#### **76 Penalties not to relieve from contribution**

Payment of penalties under this Act shall not relieve any person from liability to assessment and for payment of any contribution for which the person would otherwise be liable.

#### **77 General penalty**

Any person who contravenes or fails to comply with any of the provisions of this Act or of any notice given to the person under this Act is, if no other penalty is provided, guilty of an offence against this Act and liable to a penalty not exceeding 4 penalty units.

#### **78 Recovery of penalties**

All proceedings for offences against this Act and the regulations shall be disposed of summarily before the Local Court.

### **Part 10**

#### **79, 80 (Repealed)**

### **First Schedule**

(Section 3)

#### **Sydney region**

Municipality of Ashfield

Shire of Hornsby

Municipality of Auburn

Municipality of Hunters Hill

Municipality of Bankstown	Municipality of Hurstville
Shire of Baulkham Hills	Municipality of Kogarah
Municipality of Blacktown	Municipality of Ku-ring-gai
City of Blue Mountains	Municipality of Lane Cove
Municipality of Leichhardt	City of Parramatta
City of Liverpool	City of Penrith
Municipality of Manly	Municipality of Randwick
Municipality of Marrickville	Municipality of Rockdale
Municipality of Mosman	Municipality of Ryde
Municipality of North Sydney	Municipality of South Sydney
Municipality of Botany	Municipality of Strathfield
Municipality of Burwood	Shire of Sutherland
Municipality of Camden	City of Sydney
City of Campbelltown	Shire of Warringah
Municipality of Canterbury	Municipality of Waverley
Shire of Colo	Municipality of Willoughby
Municipality of Concord	Municipality of Windsor
Municipality of Drummoyne	Shire of Wollondilly
Municipality of Fairfield	Municipality of Woollahra
Shire of Gosford	Shire of Wyong
Municipality of Holroyd	

## Second Schedule

(Section 3)

### Local Government Areas which include land which comprises the non-urban Sydney region

Shire of Baulkham Hills	Shire of Hornsby
Municipality of Blacktown	Municipality of Ku-ring-gai
City of Blue Mountains	City of Liverpool
Municipality of Camden	City of Penrith
City of Campbelltown	Shire of Sutherland
Shire of Colo	Shire of Warringah

Municipality of Fairfield	Municipality of Windsor
Shire of Gosford	Shire of Wollondilly
Municipality of Holroyd	Shire of Wyong

**Third Schedule**

(Section 3)

Plans delineating the non-urban Sydney region.  
Plans catalogued LDC 1 to LDC 93 (inclusive).

**Fourth Schedule**

(Section 11 (2))

**Local Government Areas in which certain land is deemed to be declared land at the commencement of this Act**

Shire of Baulkham Hills	City of Liverpool
Municipality of Blacktown	City of Penrith
City of Campbelltown	Shire of Sutherland
Municipality of Fairfield	

**Fifth Schedule**

(Section 11 (2))

Plans delineating land which is deemed to be declared land at the commencement of this Act.  
Plans catalogued LDC R69/94 to LDC R69/153 (inclusive).