

**MISCELLANEOUS ACTS (PLANNING) REPEAL
AND AMENDMENT ACT, 1979, No. 205**

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 205, 1979.

An Act to repeal certain Acts and amend certain other Acts, consequent on the enactment of the Environmental Planning and Assessment Act, 1979, and the Land and Environment Court Act, 1979, and to enact savings, transitional and other provisions consequent on and in connection with the enactment of those Acts. [Assented to, 21st December, 1979.]

Miscellaneous Acts (Planning) Repeal and Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "Miscellaneous Acts Short
(Planning) Repeal and Amendment Act, 1979". title.

2. (1) This section and section 1 shall commence on the Commence-
date of assent to this Act. ment.

(2) Section 5, in its application to a provision of Schedule 2, shall commence on the day on which that provision commences.

(3) Part 2 of Schedule 2 shall commence on—

(a) the day referred to in section 2 (2) of the Supreme Court (Summary Jurisdiction) Bail (Amendment) Act, 1978; or

(b) the day appointed and notified under section 2 (2) of the Environmental Planning and Assessment Act, 1979,

whichever is the later, or, if those days are the same, shall commence on that day.

(4) Except as provided in this section, this Act shall commence on the day appointed and notified under section 2 (2) of the Environmental Planning and Assessment Act, 1979.

Miscellaneous Acts (Planning) Repeal and Amendment.

- Schedules. **3.** This Act contains the following Schedules :—
SCHEDULE 1.—REPEALS.
SCHEDULE 2.—AMENDMENTS.
SCHEDULE 3.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.
- Repeals. **4.** Each Act specified in Column 1 of Schedule 1 is, to the extent specified opposite that Act in Column 2 of that Schedule, repealed.
- Amendments. **5.** Each Act specified in Schedule 2 is amended in the manner set forth in that Schedule.
- Savings, transitional and other provisions. **6.** Schedule 3 has effect.

Sec. 4.

SCHEDULE 1.

REPEALS.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
1919, No. 41 ..	Local Government Act, 1919	Parts XIIA and XII B.
1921, No. 10 ..	Land and Valuation Court Act, 1921.	The whole Act.
1927, No. 15 ..	Western Lands (Amendment) Act, 1927.	Section 5 (4).
1937, No. 21 ..	Closer Settlement (Amendment) Act, 1937.	So much of the Schedule as amends Act No. 10, 1921.
1937, No. 35 ..	Statute Law Revision Act, 1937.	So much of the Second Schedule as amends Act No. 10, 1921.
1940, No. 11 ..	Administration of Justice Act, 1940.	The matter relating to Part III in section 2. Part III.

*Miscellaneous Acts (Planning) Repeal and Amendment.*SCHEDULE 1—*continued.*REPEALS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Extent of repeal.
1945, No. 21 ..	Local Government (Town and Country Planning) Amendment Act, 1945.	Section 3.
1948, No. 30 ..	Local Government (Areas) Act, 1948.	Section 26 (q), (r) and (t)-(x).
1951, No. 18 ..	Local Government (Amendment) Act, 1951.	Section 8.
1954, No. 13 ..	Local Government (Amendment) Act, 1954.	The unrepealed portion.
1955, No. 13 ..	Land and Valuation Court (Amendment) Act, 1955.	The whole Act.
1957, No. 13 ..	Supreme Court Procedure Act, 1957.	Section 12. So much of the First Schedule as amends Act No. 10, 1921, and so much of the Second Schedule as relates to the Land and Valuation Court Act, 1921.
1958, No. 21 ..	Local Government (Amendment) Act, 1958.	Section 7 (3) and (8).
1959, No. 21 ..	Local Government (Amendment) Act, 1959.	Section 6 (1) (a) and (b), (2) and (3).
1961, No. 67 ..	Valuation of Land and Local Government (Further Amendment) Act, 1961.	Section 4.
1962, No. 7 ..	Local Government (Town and Country Planning) Amendment Act, 1962.	Section 5.
1963, No. 59 ..	State Planning Authority Act, 1963.	The whole Act.
1964, No. 37 ..	Industrial Arbitration (Amendment) Act, 1964.	So much of the First Schedule as amends Act No. 59, 1963, and so much of the Second Schedule as relates to Act No. 59, 1963.
1965, No. 12 ..	Supreme Court and Circuit Courts (Amendment) Act, 1965.	Section 11 and so much of the Schedule as relates to Act No. 10, 1921.
1965, No. 33 ..	Decimal Currency Act, 1965.	So much of the First Schedule as amends Act No. 59, 1963, and so much of the Second Schedule as relates to Act No. 59, 1963.
1967, No. 48 ..	Local Government (City of Sydney Boundaries) Act, 1967.	The matter relating to Division 3 of Part VI in section 2. Division 3 of Part VI.
1967, No. 86 ..	Industrial Arbitration (Basic Wage) Amendment Act, 1967.	Section 5 (5). So much of the Second Schedule as relates to Act No. 59, 1963.
1970, No. 1 ..	Local Government (Amendment) Act, 1970.	Section 9.

*Miscellaneous Acts (Planning) Repeal and Amendment.*SCHEDULE 1—*continued.*REPEALS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act	Extent of repeal.
1970, No. 22 ..	Land Development Contribution Management Act, 1970.	Section 79 (b).
1970, No. 42 ..	Local Government (Further Amendment) Act, 1970.	Section 3.
1970, No. 52 ..	Supreme Court Act, 1970 .	So much of the Second Schedule as amends section 342AC of Act No. 41, 1919, Act No. 10, 1921, and Act No. 59, 1963.
1970, No. 79 ..	Clutha Development Pty. Limited Agreement Act, 1970.	The whole Act.
1971, No. 14 ..	Local Government (Amendment) Act, 1971.	The whole Act.
1971, No. 78 ..	Local Government (Appeals) Amendment Act, 1971.	Sections 2, 3, 4 (c), 5 (a) and (b), 6 and 11.
1972, No. 40 ..	State Planning Authority (Amendment) Act, 1972.	The whole Act.
1972, No. 41 ..	Supreme Court (Amendment) Act, 1972.	Paragraphs (z) and (ap) of the Second Schedule and so much of paragraph (bb) of that Schedule as relates to Act No. 78, 1971.
1972, No. 53 ..	Public Transport Commission Act, 1972.	Section 35.
1973, No. 9 ..	District Court Act, 1973 ..	So much of Schedule 2 as amends Act No. 59, 1963.
1974, No. 29 ..	Local Government (Amendment) Act, 1974.	Section 3 (b).
1974, No. 43 ..	New South Wales Planning and Environment Commission Act, 1974.	The whole Act.
1975, No. 34 ..	Local Government (Appeals) Amendment Act, 1975.	Sections 2, 6 and 7.
1976, No. 4 ..	Statutory and Other Offices Remuneration Act, 1975.	So much of Schedule 5 as amends Act No. 10, 1921, and Act No. 43, 1974.
1976, No. 26 ..	Local Government (Amendment) Act, 1976.	Section 10.
1977, No. 19 ..	Notice of Action and Other Privileges Abolition Act, 1977.	So much of Schedule 1 as amends Act No. 59, 1963.
1978, No. 64 ..	Local Government (Amendment) Act, 1978.	Section 2 (4), the matter relating to Schedule 6 in section 4, section 6 and Schedules 5 (4) and 6.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2.

Sec. 5.

PART 1.

AMENDMENTS.

Public Instruction Act of 1880—

Amendment
of Act
43 Vic.
No. 23.

Section 4A (5)—

Omit "as amended by subsequent Acts, and the provisions of the Land and Valuation Court Act, 1921, as amended by subsequent Acts, shall, mutatis mutandis, apply to and in respect of the hearing and determination of any such claim", insert instead "by notification published in the Gazette, and the Land and Environment Court has jurisdiction accordingly".

Western Lands Act, 1901—

Amendment
of Act No.
70, 1901.

(1) Section 3, definition of "Local land board"—

Omit "Land and Valuation Court", insert instead "Land and Environment Court".

(2) Sections 9 (3) (c), 9 (6) (a), 10B, 18C, 18G (1A) (d), (e), 26 (4), 27—

Omit "Land and Valuation Court" wherever occurring, insert instead "Land and Environment Court".

(3) Section 9 (6) (a)—

Omit "such Court", insert instead "the Court".

Public Roads Act 1902—

Amendment
of Act No.
95, 1902.

Section 13 (1A), 34 (1)—

Omit "Land and Valuation Court" wherever occurring, insert instead "Land and Environment Court".

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

- Amendment of Act No. 37, 1904. Closer Settlement Act, 1904—
Sections 28, 35, 42, 52—
Omit “Land and Valuation Court” wherever occurring, insert instead “Land and Environment Court”.
- Amendment of Act No. 12, 1907. Closer Settlement (Amendment) Act, 1907—
Sections 4 (4) (b) (ii), 4 (5), 5 (7), 9, 10, 10A—
Omit “Land and Valuation Court” wherever occurring, insert instead “Land and Environment Court”.
- Amendment of Act No. 21, 1909. Closer Settlement (Amendment) Act, 1909—
Section 23 (1), (3)—
Omit the subsections.
- Amendment of Act No. 7, 1912. Housing Act, 1912—
Section 4c (4)—
Omit “and the provisions of the Land and Valuation Court Act, 1921, as amended by subsequent Acts, shall, mutatis mutandis, apply to and in respect of the hearing and determination of any such claim”, insert instead “by notification published in the Gazette, and the Land and Environment Court has jurisdiction accordingly”.
- Amendment of Act No. 16, 1912. Criminal Appeal Act, 1912—
(1) Section 2, definition of “Sentence”—
After “1967”, insert “, or section 52 of the Land and Environment Court Act, 1979”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

(2) Section 5AB—

After section 5AA, insert :—

5AB. Section 5AA applies to and in respect of a person—

(a) convicted of an offence; or

(b) against whom an order to pay costs is made,

by the Land and Environment Court in its summary jurisdiction in the same way as it applies to a person referred to in section 5AA (1), and, for the purposes of this section, a reference in section 5AA to the Supreme Court shall be read and construed as a reference to the Land and Environment Court.

Appeal in criminal cases dealt with by Land and Environment Court in its summary jurisdiction.

(3) (a) Section 5A (1A)—

After “Supreme Court”, insert “or Land and Environment Court”.

(b) Section 5A (1A)—

After “5AA (1)”, insert “or section 5AA (1) as applied by section 5AB”.

(c) Section 5A (3)—

After “Supreme Court”, insert “or Land and Environment Court”.

(4) Section 5c—

After “such an application.”, insert “or the Land and Environment Court in its summary jurisdiction, in any proceedings to which the Crown was a party, has quashed any application made under section 41 (1) of the Land and Environment Court Act, 1979, or any charge specified in such an application.”.

(5) Section 10 (4)—

After “5AA (1)”, insert “, or under section 5AA (1) as applied by section 5AB.”.

Water Act, 1912—

Amendment of Act No. 44, 1912.

(1) Sections 11 (4), (6), 12 (1), (2), 13A (4), (5), (6), 14 (1), (2), (5), 20CA (4), (5), (6), 20CB (1), (3), 107 (5), 126, 152 (3)—

Omit “Land and Valuation Court” wherever occurring, insert instead “Land and Environment Court”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

- (2) Sections 11 (6), 13A (4), 14 (2), (5), 20CA (4) (k), 126—
Omit “the said Court” wherever occurring, insert instead “the Court”.
- (3) (a) Section 14 (2)—
Omit “the court”, insert instead “the Court”.
- (b) Section 14 (5)—
Omit “the judge of”.
- (c) Section 14 (5)—
Omit “the judge” where secondly occurring, insert instead “the Court”.

Amendment of Act No. 45, 1912. Public Works Act, 1912—

- (1) Section 102—
Omit “Court”, insert instead “Land and Environment Court”.
- (2) Section 104—
Omit “Court”, insert instead “Land and Environment Court”.
- (3) Sections 105, 106—
Omit the sections.
- (4) Section 126A (2)—
Omit “Court”, insert instead “Land and Environment Court”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

(5) Section 126B (3) (b)—

Omit "Court", insert instead "Land and Environment Court".

State Coal Mines Act, 1912—

Amendment
of Act No.
70, 1912.

(1) Section 7 (5), (7)—

Omit "Land and Valuation Court" wherever occurring, insert instead "Land and Environment Court".

(2) Section 7 (6)—

Omit ", the court hearing an appeal under this Act", insert instead "on an appeal under this section, the Land and Environment Court".

(3) Section 9—

Omit the section.

Irrigation Act, 1912—

Amendment
of Act No.
73, 1912.

(1) Sections 5G, 11C (3) (f), 11E—

Omit "Land and Valuation Court" wherever occurring, insert instead "Land and Environment Court".

(2) Section 20 (5)—

Omit "the Judge of the Land and Valuation Court", insert instead "a Judge of the Land and Environment Court".

Crown Lands Consolidation Act, 1913—

Amendment
of Act No.
7, 1913.

(1) Section 1 (b)—

From the matter relating to Part II, omit "LAND AND VALUATION COURT", insert instead "LAND AND ENVIRONMENT COURT".

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

- (2) Sections 4, 12 (1), 14 (7), (8), 16 (1), 17 (1), 18, 19, 20 (1), (2), 59 (3A), 125 (1), 145 (4), 145B (1B), 147A, 153 (b), (d), 166, 173G, 173H, 197 (1), (3) (b) (ii), 208, 209 (3), 246, 280—

Omit “Land and Valuation Court” wherever occurring, insert instead “Land and Environment Court”.

- (3) (a) Section 5 (1), definition of “Local land board”—

Omit “Land and Valuation Court”, insert instead “Land and Environment Court”.

- (b) Section 5 (1), definition of “Local land board”—

Omit “court”, insert instead “Court”.

- (4) Part II, heading—

Omit “LAND AND VALUATION COURT”, insert instead “LAND AND ENVIRONMENT COURT”.

- (5) Section 20, heading—

Omit “*Land and Valuation Court*”, insert instead “*Land and Environment Court*”.

- (6) Heading after section 20—

Omit the heading.

- (7) Section 22—

Omit the section and the heading thereto, insert instead:—

General powers and procedure of Land and Environment Court.

Juris-
diction
of Land
and
Environ-
ment
Court.

22. The Land and Environment Court shall have power to hear and determine all appeals and all matters referred to the Court by the Minister or by a local land board or chairman, and to make any order or decision which the nature of the case may require, including an order remitting the appeal or matter to a land board for such action as may be directed, and in that event the land board shall be empowered and bound to act accordingly.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

(8) (a) Section 173F (1)—

Omit “Land and Valuation Court constituted by the Land and Valuation Court Act, 1921”, insert instead “Land and Environment Court”.

(b) Section 173F (2)—

Omit “registrar of the Land and Valuation Court”, insert instead “Registrar of the Land and Environment Court”.

(9) Section 254A (1A)—

After “1919” wherever occurring, insert “, or the Environmental Planning and Assessment Act, 1979”.

Closer Settlement (Amendment) Act, 1914—

**Amendment
of Act No.
7, 1914.**

(1) Section 7, heading—

Omit “*Land and Valuation Court*”, insert instead “*Land and Environment Court*”.

(2) Section 7 (1)—

Omit “Land and Valuation Court”, insert instead “Land and Environment Court”.

City and Suburban Electric Railways Act, 1915—

**Amendment
of Act No.
29, 1915.**

Section 5D—

Omit “Local Government Act, 1919, as amended by subsequent Acts, or of any other Act, or of any Ordinance under the Local Government Act, 1919, as so amended”, insert instead “Local Government Act, 1919, or of an Ordinance made under the Local Government Act, 1919, or of the Environmental Planning and Assessment Act, 1979, or of an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979, or of any other Act”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

Amendment
of Act No.
2, 1916.

Valuation of Land Act, 1916—

(1) Section 3—

(a) Omit the matter relating to Part IIIA.

(b) Omit the matter relating to Part IV, insert instead:—

PART IV.—REFERENCE OF OBJECTIONS TO COURT—*ss. 37–40.*

(2) Section 4 (1), definition of “Valuation board”—

Omit the definition.

(3) Section 35 (2)—

Omit the subsection.

(4) (a) Section 36—

Omit “section 35 or that an appeal is pending”, insert instead “section 38”.

(b) Section 36—

Omit “or no appeal therefrom were pending”.

(c) Section 36—

Omit “or appeal”.

(5) Part IIIA—

Omit the Part.

(6) Part IV—

Omit the Part, insert instead:—

PART IV.

REFERENCE OF OBJECTIONS TO COURT.

Interpre-
tation.

37. In this Part, “Court” means the Land and Environment Court.

Reference of
objections.

38. (1) An objector or other person referred to in section 35 (1) who is dissatisfied with the decision of the valuer-general on an objection made to the valuer-general under Part III may, within the

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

time and in the manner prescribed, require the valuer-general to refer the objection to the Court, and the valuer-general shall refer the objection accordingly.

(2) Any State or Commonwealth Department may appear and be heard before the Court by counsel or solicitor, or by any officer authorised in that behalf.

39. Without limiting the powers of the Court under the Land and Environment Court Act, 1979, the Court shall, if it upholds an objection and is satisfied that the valuation is erroneous, order the valuation to be altered. **Alteration of valuation.**

40. (1) The Registrar of the Court shall furnish to the valuer-general a certified copy of the order referred to in section 39. **Consequential procedure.**

(2) The valuer-general shall make—

(a) such amendments to the roll as are necessary to bring it into conformity with the order; and

(b) such consequential alterations as are necessary for the purpose of fixing the unimproved value, the improved value and the assessed annual value in respect of the land or stratum concerned and the value of the estates or interests of the owners thereof.

(7) Section 58 (2) (e) (iii)—

Omit "Ordinance No. 105 made under that Act, a prescribed scheme within the meaning of Part XIIA of that Act or an interim development order within the meaning of section 342T (1) of that Act", insert instead "or an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979".

(8) Section 58D (10)—

Omit "Parts IIIA and ", insert instead "Part".

(9) (a) Section 74 (1)—

Omit "valuation court or a valuation board or member thereof", insert instead "a Judge or assessor of the Land and Environment Court".

(b) Section 74 (1)—

Omit "court, valuation board or member thereof", insert instead "Judge or assessor".

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

Amendment of Act No. 21, 1916. Returned Soldiers Settlement Act, 1916—
 Sections 5, 19 (3B)—
 Omit “Land and Valuation Court” wherever occurring, insert instead “Land and Environment Court”.

Amendment of Act No. 41, 1919. Local Government Act, 1919—
 (1) Section 3—
 Omit the matter relating to Parts XII, XIII A and XIII B, insert instead :—

PART XII.—SUBDIVISION REGULATION—*ss.* 320–342.

(2) (a) Section 4, definition of “Environmental planning instrument”—
 After the definition of “Electoral offence”, insert :—

“Environmental planning instrument” means an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979.

(b) Section 4, definition of “Tribunal”—
 Omit the definition.

(3) Section 118 (7)—

Omit “Land and Valuation Court”, insert instead “Land and Environment Court”.

(4) Section 132 (1) (k)—

Omit “a scheme prescribed under Part XIII A where such land has been acquired by a responsible authority in accordance with the provisions of the scheme for the purposes of the scheme”, insert instead “an environmental planning instrument where the land has been acquired in accordance with that instrument for a purpose authorised by that instrument”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

- (5) (a) Section 133 (3)—
Omit “Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921”, insert instead “Land and Environment Court”.
- (b) Section 133 (4)—
Omit “Land and Valuation Court”, insert instead “Land and Environment Court”.
- (c) Section 133 (4)—
Omit “the said court”, insert instead “that Court”.
- (6) Section 160c (1), definition of “planning instrument”—
Omit the definition, insert instead:—
“planning instrument” means—
(a) a proclamation made under section 309 (1); and
(b) an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979;
- (7) Section 171 (3), (4)—
Omit “Land and Valuation Court” wherever occurring, insert instead “Land and Environment Court”.
- (8) (a) Section 270D (2) (a)—
Omit the paragraph.
- (b) Section 270D (3)—
Omit the subsection, insert instead :—
(3) The chairman of a parking advisory committee shall be a person appointed as such by the committee from its members, shall hold office as such for such period not exceeding 12 months as is determined by the committee, and is eligible for re-appointment.
- (9) Section 270JA (1)—
Omit “any town or country planning scheme within the meaning of Part XIA”, insert instead “the Environmental Planning and Assessment Act, 1979,”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

- (10) (a) Section 270JB (1)—
Omit “Minister”, insert instead “Land and Environment Court”.
- (b) Section 270JB (2), (3)—
Omit the subsections.
- (11) (a) Section 288c (5)—
Omit “Tribunal”, insert instead “Land and Environment Court”.
- (b) Section 288c (6)—
Omit the subsection.
- (12) (a) Section 289 (m)—
Omit “Tribunal”, insert instead “Land and Environment Court”.
- (b) Section 289 (m)—
Omit “Where an appeal is made under this paragraph against a direction, a reference in Part XII B to a decision of a council, howsoever expressed, includes a reference to that direction.”.
- (13) (a) Section 309 (1)—
Omit “The Governor”, insert instead “Subject to subsection (5), the Governor”.
- (b) Section 309 (5)—
After section 309 (4), insert:—
(5) A proclamation under subsection (1) has no force or effect in respect of any land to which a local environmental plan within the meaning of the Environmental Planning and Assessment Act, 1979, applies.
- (14) Section 313—
Omit the section, insert instead:—
313. (1) Where consent under the Environmental Planning and Assessment Act, 1979, is required in respect of the erection of a building, then, in respect of any application for approval of the erection of the building, the council shall take into consideration—
(a) drainage, ventilation, lighting and healthiness of the building;

Subjects
for con-
sideration.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

- (b) design, materials, stability, building line and height;
- (c) size, height and lighting of rooms;
- (d) height of floor levels in relation to level of road;
- (e) size, height and materials of party walls between buildings;
- (f) the proportion of the site to be covered by the building and the provision of open spaces and light areas;
- (g) the position of the building or any outbuilding or office in relation to other buildings or to the boundaries of the site;
- (h) the provision of storage for water for domestic purposes;
- (i) means of access generally and particularly the means of access for the purposes of the removal of nightsoil, garbage and other refuse;
- (j) height, materials, stability, design and position of fences (if any) to be erected on or on the boundaries of the allotment on which the building is to be erected;
- (k) whether the site is subject to flooding or tidal inundation; and
- (l) whether the site is or probably will be subject to subsidence or slip.

(2) Where consent under the Environmental Planning and Assessment Act, 1979, is not required in respect of the erection of a building, then, in respect of any application for approval of the erection of the building, the council shall take into consideration—

- (a) the matters enumerated in subsection (1);
- (b) where the building is to be erected in an area or part of an area to which this paragraph has been applied by the Governor by proclamation, the provision of suitable space or accommodation for vehicles likely to be used by the occupants of the building;
- (c) the provision, in buildings designed or intended for use for commercial or industrial purposes, of adequate accommodation for the loading or unloading of vehicles;
- (d) whether any fuel burning equipment or industrial plant is to be provided in the building and if so whether proper provision is to be made to prevent the emission at the points specified in or determined in accordance with the regulations under the Clean Air Act, 1961, of air impurities in excess of the standards or concentration of rates prescribed under that Act;

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

- (e) whether the use of the building is likely to cause pollution (as defined in the Clean Waters Act, 1970) of any waters, as so defined;
- (f) whether any trees on the site should be preserved; and
- (g) any development standards within the meaning of the Environmental Planning and Assessment Act, 1979, applicable to the erection or use of the building.

(3) Subsection (2) (d) does not apply to scheduled premises.

(4) Nothing in subsection (2) (e) operates so as to authorise the council to take into consideration the use or proposed use of any apparatus, equipment or works in relation to which approval is required under section 19 of the Clean Waters Act, 1970.

(5) In this section, "air impurities", "fuel burning equipment", "industrial plant" and "scheduled premises" respectively have the meanings ascribed thereto in the Clean Air Act, 1961.

(15) (a) Section 314 (1) (b)—

After "ordinances", insert "and the Environmental Planning and Assessment Act, 1979, and any environmental planning instrument".

(b) Section 314 (4)—

After section 314 (3), insert :—

(4) An application under this Division, so far as it relates to development that may only be carried out with consent under the Environmental Planning and Assessment Act, 1979, shall not be approved or approved subject to conditions unless that consent has been granted either unconditionally or subject to conditions, but nothing in this subsection prevents the council from granting that approval at the same time as that consent is granted.

(16) Section 314A—

Omit the section.

(17) (a) Section 317A (1)—

After "council" where secondly occurring, insert "and the Environmental Planning and Assessment Act, 1979, and any environmental planning instrument".

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

(b) Section 317A (1)—

After “specifications” where secondly occurring, insert “, or any contravention of the Environmental Planning and Assessment Act, 1979, or any environmental planning instrument,”.

(c) Section 317A (3)—

After “council” where secondly occurring, insert “, and the Environmental Planning and Assessment Act, 1979, and any environmental planning instrument”.

(d) Section 317A (3)—

After “specifications” where secondly occurring, insert “, or any contravention of the Environmental Planning and Assessment Act, 1979, or any environmental planning instrument,”.

(e) Section 317A (4)—

After “ordinances”, insert “and the Environmental Planning and Assessment Act, 1979, and any environmental planning instrument”.

(f) Section 317A (5)—

After section 317A (4), insert:—

(5) Any person aggrieved by the failure of the council to furnish a certificate under this section within 90 days of the application being made may appeal against the failure to the Land and Environment Court, and the Court may direct the council to furnish the certificate in such terms as the Court orders.

(18) Section 317B (5)—

Omit the subsection, insert instead:—

(5) Any owner who has received an order under this section may appeal against the order to the Land and Environment Court.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

- (19) Section 317C—
Omit the section.
- (20) (a) Section 317E (a)—
Omit “Tribunal”, insert instead “Land and Environment Court”.
- (b) Section 317E—
Omit “board” wherever occurring, insert instead “Land and Environment Court”.
- (21) Section 317F—
Omit “Tribunal”, insert instead “Land and Environment Court”.
- (22) Section 317G—
Omit “board”, insert instead “Land and Environment Court”.
- (23) Section 317H—
Omit “board”, insert instead “Land and Environment Court”.
- (24) (a) Section 317I (a)—
Omit “Tribunal”, insert instead “Land and Environment Court”.
- (b) Section 317I (b)—
Omit “board”, insert instead “Court”.
- (25) (a) Section 317J (2), (5)—
Omit “Tribunal” wherever occurring, insert instead “Land and Environment Court”.
- (b) Section 317J (2), (5)—
Omit “board” wherever occurring, insert instead “Court”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

- (26) (a) Section 317L—
Omit “Tribunal” where firstly occurring, insert instead “Land and Environment Court”.
- (b) Section 317L (a)—
Omit “except as provided in paragraph (b),”.
- (c) Section 317L (a)—
Omit “senior chairman of the Tribunal”, insert instead “Court”.
- (d) Section 317L (a)—
Omit “or” where lastly occurring.
- (e) Section 317L (b)—
Omit the paragraph.
- (27) (a) Section 317M (2)—
Omit “Tribunal”, insert instead “Land and Environment Court”.
- (b) Section 317M (3)—
Omit “Tribunal”, insert instead “Land and Environment Court”.
- (28) Part XII, heading—
Omit the heading, insert instead:—
PART XII.
SUBDIVISION REGULATION.
- (29) (a) Section 327 (1) (bi)—
Omit the paragraph, insert instead:—
(bi) where the Land and Environment Court has made a requirement referred to in section 40 of the Land and Environment Court Act, 1979—that requirement has been complied with; and

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

(b) Section 327 (2) (ai)—

Omit the paragraph, insert instead:—

- (ai) where the Land and Environment Court has made a requirement referred to in section 40 of the Land and Environment Court Act, 1979—that requirement has been complied with; and

(30) Section 327A (2)—

Omit “any town or country planning scheme prescribed or in course of preparation under Part XIIA or with the requirements of an interim development order made under Division 7 of that Part or of a council imposed under such an order—”, insert instead “an environmental planning instrument or of a council imposed under the Environmental Planning and Assessment Act, 1979—”.

(31) Section 327c—

Omit the section.

(32) Section 331 (6), (7)—

After section 331 (5), insert:—

(6) An application under this Division, so far as it relates to development that may only be carried out with consent under the Environmental Planning and Assessment Act, 1979, shall not be approved or approved subject to conditions unless that consent has been granted either unconditionally or subject to conditions, but nothing in this subsection prevents the council from granting that approval at the same time as that consent is granted.

(7) Notwithstanding subsection (2), the council shall disapprove an application where the subdivision referred to therein would, if carried out, result in a contravention of an environmental planning instrument or the Environmental Planning and Assessment Act, 1979, whether arising in relation to that subdivision or any other development.

(33) (a) Section 331A (1) (b)—

Omit “Tribunal”, insert instead “Land and Environment Court”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

(b) Section 331A (1)—

Omit "Tribunal" where secondly and thirdly occurring, insert instead "Court".

(34) Section 332—

Omit the section, insert instead:—

332. (1) Where consent under the Environmental Planning and Assessment Act, 1979, is required in respect of the opening of a road, then, in respect of any application for approval of the opening of a road, the council shall take into consideration—

Subjects
for con-
sideration
respecting
new roads.

- (a) the method of draining the road necessary in the circumstances, present and prospective, and the disposal of the drainage;
- (b) the drainage reserves or drainage easements to be provided;
- (c) the character of construction of the road necessary in the circumstances, present and prospective, and the necessity for the erection of road signs as part of the work of that construction;
- (d) whether or not kerbing, guttering and footpaths should be provided;
- (e) the treatment of junctions or intersections of roads;
- (f) the classification of the road;
- (g) whether the district is a residential district; and
- (h) if any proposed new road will be a lane, whether or not a lane should be permitted, in the circumstances.

(2) Where consent under the Environmental Planning and Assessment Act, 1979, is not required in respect of the opening of a road, then, in respect of any application for approval of such a road, the council shall take into consideration—

- (a) the matters enumerated in subsection (1);
- (b) the situation and planning of the road in relation to public convenience, present and prospective, to inter-communication with neighbouring localities within or without the area;
- (c) the necessity for the planting of trees with tree-guards in the road; and
- (d) the provisions of any environmental planning instrument.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

(35) Section 333 (1), (1A)—

Omit section 333 (1), insert instead:—

(1) Where consent under the Environmental Planning and Assessment Act, 1979, is required in respect of a subdivision, then, in respect of any application for approval of a subdivision of land (whether the subdivision involves the opening of a road or not), the council shall take into consideration—

- (a) the size and shape of each separate parcel;
- (b) the length of road frontage of each separate parcel;
- (c) the situation and planning of the separate parcels in relation to public convenience, present and prospective;
- (d) the existing and proposed means of access to each separate parcel;
- (e) whether the district is or probably will be a residential district;
- (f) the drainage of the land, the drains proposed to be constructed and the drainage reserves and drainage easements to be provided;
- (g) whether the land has been declared unsuitable for building upon under the provisions of the Public Health Act, 1902;
- (h) whether the land is subject to flooding or tidal inundation; and
- (i) whether the land is or probably will be subject to subsidence or slip.

(1A) Where consent under the Environmental Planning and Assessment Act, 1979, is not required in respect of the subdivision, then, in respect of any application for approval of the subdivision, the council shall take into consideration—

- (a) the matters enumerated in subsection (1);
- (b) the standard number of houses to the hectare fixed by the council;
- (c) the amount of land to be provided as a public reserve out of the land to be subdivided;
- (d) the provisions of any environmental planning instrument, including the use to which the land is proposed to be, or may be, put following the subdivision, in accordance with or consistently with that instrument; and
- (e) whether any trees on the land should be preserved.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

- (36) (a) Section 341—
Omit “Tribunal” where firstly occurring, insert instead “Land and Environment Court”.
- (b) Section 341 (a)—
Omit “except as provided in paragraph (b),”.
- (c) Section 341 (a)—
Omit “senior chairman of the Tribunal”, insert instead “Court”.
- (d) Section 341 (a)—
Omit “or” where lastly occurring.
- (e) Section 341 (b)—
Omit the paragraph.
- (37) Section 417A—
Omit “Land and Valuation Court” wherever occurring, insert instead “Land and Environment Court”.
- (38) (a) Section 510 (3) (a)—
Omit “except as provided in paragraph (b),”.
- (b) Section 510 (3) (a)—
Omit “senior chairman of the Tribunal”, insert instead “Land and Environment Court”.
- (c) Section 510 (3) (a)—
Omit “or” where lastly occurring.
- (d) Section 510 (3) (b)—
Omit the paragraph.
- (e) Section 510 (3)—
Omit “Tribunal” where thirdly occurring, insert instead “Land and Environment Court”.
- (39) (a) Section 519A (1)—
Omit “subsection (2) of section 342L”, insert instead “section 342L (2) immediately before the day appointed and notified under section 2 (2) of the Environmental Planning and Assessment Act, 1979”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

- (b) Section 519A (1)—
Omit “and has been transferred to a council pursuant to that Ordinance or any such local scheme”, insert instead “, and to land reserved for use exclusively for the purpose of a park, a recreation area or open space under an environmental planning instrument and transferred to, or acquired by, as the case may be, a council pursuant to that Ordinance, any such local scheme or any environmental planning instrument”.
- (c) Section 519A (3)—
Omit “or any such local scheme”, insert instead “any such local scheme or any environmental planning instrument”.
- (d) Section 519A (8)—
Omit “town or country planning scheme under Part XIIA”, insert instead “environmental planning instrument”.
- (40) Section 519c (7) (a)—
Omit “New South Wales Planning and Environment Commission”, insert instead “Director of Environment and Planning”.
- (41) Section 520A (1), definition of “Commission”—
Omit the definition.
- (42) Section 520B (3)—
Omit “Commission”, insert instead “Director of Environment and Planning”.
- (43) Section 520D (1) (a)—
Omit “Commission”, insert instead “Director of Environment and Planning”.
- (44) (a) Section 532 (2) (c)—
Omit “prescribed scheme under Part XIIA”, insert instead “environmental planning instrument”.
- (b) Section 532 (2) (c)—
Omit “such prescribed scheme”, insert instead “such instrument”.
- (45) Section 536c (1)—
Omit “,106.”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

(46) Section 536D—

Omit "in section 9 of the Land and Valuation Court Act, 1921–1940", insert instead "by section 24 of the Land and Environment Court Act, 1979".

(47) Section 536DA (4)—

Omit "in section 9 of the Land and Valuation Court Act, 1921, as amended by subsequent Acts", insert instead "by section 24 of the Land and Environment Court Act, 1979".

(48) Schedule 3, section 19 (1) (b), (3)—

Omit "Land and Valuation Court" wherever occurring, insert instead "Land and Environment Court".

Liquor (Amendment) Act, 1919—

Amendment
of Act No.
42, 1919.

(1) Section 24—

Omit "Land and Valuation Court" wherever occurring, insert instead "Land and Environment Court".

(2) Section 24 (3)—

Omit "Such appeal shall be by way of rehearing."

Main Roads Act, 1924—

Amendment
of Act No.
24, 1924.

(1) (a) Section 27c (5) (b)—

Omit "Land and Valuation Court under the Land and Valuation Court Act, 1921", insert instead "Land and Environment Court".

(b) Section 27c (5) (b)—

Omit "such court", insert instead "that Court".

(2) (a) Section 31H (a)—

Omit "Parts XI and XIIA", insert instead "Part XI".

(b) Section 31H (a)—

After "1919," insert "and the Environmental Planning and Assessment Act, 1979,".

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

- Amendment of Act No. 31, 1924. Prickly-pear Act, 1924—
 Sections 15 (4), 21A (5) (f), 22 (3)—
 Omit “Land and Valuation Court” wherever occurring, insert instead “Land and Environment Court”.
- Amendment of Act No. 50, 1924. Metropolitan Water, Sewerage, and Drainage Act, 1924—
- (1) (a) Section 32 (5)—
 Omit “under the provisions of the Land and Valuation Court Act, 1921,”.
- (b) Section 32 (5)—
 After “1912,” insert “by notification published in the Gazette”.
- (c) Section 32 (5)—
 After “made” where secondly occurring, insert “, and the Land and Environment Court has jurisdiction accordingly”.
- (2) Section 97B (8)—
 Omit “Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921”, insert instead “Land and Environment Court”.
- (3) (a) Section 100B (1)—
 Omit “planning scheme prepared under Part XIIA of the Local Government Act, 1919”, insert instead “environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979”.
- (b) Section 100B (1)—
 Omit “that Act”, insert instead “the Local Government Act, 1919”.
- (4) Section 125 (3)—
 After “Act,”, insert “or an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979,”.

*Miscellaneous Acts (Planning) Repeal and Amendment.*SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

- Land Agents Act, 1927— Amendment
of Act No.
3, 1927.
- (1) Section 3, definition of “Court”—
Omit the definition, insert instead:—
“Court” means the Land and Environment Court.
- (2) Section 3, definition of “Land agent”—
Omit “Land and Valuation Court”, insert instead “court”.
- Closer Settlement and Returned Soldiers Settlement (Amendment) Act, 1927— Amendment
of Act No.
14, 1927.
- Section 2 (9)—
Omit “Land and Valuation Court”, insert instead “Land and Environment Court”.
- Surveyors Act, 1929— Amendment
of Act No.
3, 1929.
- Section 26 (1), (5)—
Omit “Land and Valuation Court” wherever occurring, insert instead
“Land and Environment Court”.
- Transport Act, 1930— Amendment
of Act No.
18, 1930.
- (1) Section 36 (2)—
Omit “the judge of the Land and Valuation Court for his”, insert
instead “the Land and Environment Court for”.
- (2) Section 160 (1)—
Omit “Land and Valuation Court” wherever occurring, insert
instead “Land and Environment Court”.
- Reclamation Act, 1930— Amendment
of Act No.
37, 1930.
- Section 12—
Omit “Land and Valuation Court”, insert instead “Land and Environment Court”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

Amendment of Act No. 35, 1934. Pastures Protection Act, 1934—

(1) Sections 42 (1), 134, 137, 138—

Omit “Land and Valuation Court” wherever occurring, insert instead “Land and Environment Court”.

(2) Section 139—

Omit the section.

Amendment of Act No. 58, 1935. Fisheries and Oyster Farms Act, 1935—

Section 76 (6)—

Omit “Land and Valuation Court”, insert instead “Land and Environment Court”.

Amendment of Act No. 10, 1938. Soil Conservation Act, 1938—

(1) Section 22 (2), (4)—

Omit “Land and Valuation Court” wherever occurring, insert instead “Land and Environment Court”.

(2) Section 22 (4)—

Omit “the judge of” wherever occurring.

Amendment of Act No. 11, 1938. Hunter District Water, Sewerage and Drainage Act, 1938—

(1) (a) Section 32 (5)—

Omit “under the provisions of the Land and Valuation Court Act, 1921,”.

(b) Section 32 (5)—

After “1912,” insert “by notification published in the Gazette”.

(c) Section 32 (5)—

After “made” where secondly occurring, insert “, and the Land and Environment Court has jurisdiction accordingly”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

(2) Section 101B (8)—

Omit "Land and Valuation Court as constituted by the Land and Valuation Court Act, 1921", insert instead "Land and Environment Court".

(3) (a) Section 104B (1)—

Omit "planning scheme prepared under Part XIA of the Local Government Act, 1919", insert instead "environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979".

(b) Section 104B (1)—

Omit "that Act", insert instead "the Local Government Act, 1919".

(4) Section 128 (3)—

After "Act,", insert "or an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979,".

Broken Hill Water and Sewerage Act, 1938—

Amendment
of Act No.
20, 1938.

(1) Section 26 (5)—

Omit "under the provisions of the Land and Valuation Court Act, 1921,".

(2) Section 26 (5)—

After "1912,", insert "by notification published in the Gazette".

(3) Section 26 (5)—

After "made" where secondly occurring, insert ", and the Land and Environment Court has jurisdiction accordingly".

Water (Amendment) Act, 1940—

Amendment
of Act No.
57, 1940.

Section 4 (4)—

Omit "Land and Valuation Court" wherever occurring, insert instead "Land and Environment Court".

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

- Amendment of Act No. 16, 1946. State Brickworks Act, 1946—
Section 8 (4)—
Omit "Land and Valuation Court" wherever occurring, insert instead "Land and Environment Court".
- Amendment of Act No. 29, 1947. State Tileworks Act, 1947—
Section 8 (3)—
Omit "Land and Valuation Court" wherever occurring, insert instead "Land and Environment Court".
- Amendment of Act No. 20, 1948. Rivers and Foreshores Improvement Act, 1948—
Sections 6 (2), 7, 14—
Omit "Land and Valuation Court" wherever occurring, insert instead "Land and Environment Court".
- Amendment of Act No. 30, 1948. Local Government (Areas) Act, 1948—
Section 34 (1)—
Omit the subsection.
- Amendment of Act No. 11, 1950. Broken Hill Proprietary Company Limited (Reclamation and Exchange) Agreement Ratification Act, 1950—
(1) (a) Section 15 (3)—
Omit "Land and Valuation Court" where firstly occurring, insert instead "Land and Environment Court".
(b) Section 15 (3)—
Omit "office of the Registrar of the Land and Valuation Court", insert instead "Court".
(c) Section 15 (4)—
Omit "Land and Valuation Court and the Judge thereof", insert instead "Land and Environment Court".

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

(2) (a) Section 20 (1)—

Omit "Land and Valuation Court", insert instead "Land and Environment Court".

(b) Section 20 (2)—

Omit "Land and Valuation Court is given to the Registrar of the said Court", insert instead "Land and Environment Court is filed in the Court".

(c) Section 20 (3)—

Omit the subsection, insert instead:—

(3) The Land and Environment Court shall have jurisdiction to hear and dispose of all matters so referred to it.

Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification Act, 1950— **Amendment of Act No. 12, 1950.**

(1) Section 10 (3)—

Omit "Land and Valuation Court" where firstly occurring, insert instead "Land and Environment Court".

(2) Section 10 (3)—

Omit "office of the Registrar of the Land and Valuation Court", insert instead "Court".

(3) Section 10 (4)—

Omit "Land and Valuation Court and the Judge thereof", insert instead "Land and Environment Court".

Hunter Valley Conservation Trust Act, 1950—

Sections 28 (6), 28 (8), 54—

Omit "Land and Valuation Court" wherever occurring, insert instead "Land and Environment Court".

Amendment of Act No. 34, 1950.

Lord Howe Island Act, 1953—

Section 24—

Omit "Land and Valuation Court", insert instead "Land and Environment Court".

Amendment of Act No. 39, 1953.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

Amendment of Act No. 41, 1953. Judges' Pensions Act, 1953—

- (1) Section 2 (1), definition of "Judge"—
After "Board," insert "Judge of the Land and Environment Court,".
- (2) (a) Section 3 (1) (c)—
Omit "or".
- (b) Section 3 (1) (d)—
Omit "1926," insert instead "1926; or".
- (c) Section 3 (1) (e)—
After section 3 (1) (d), insert:—
(e) section 9 (3) of the Land and Environment Court Act, 1979,
- (3) Section 8 (3)—
After "Board," insert "an acting Judge of the Land and Environment Court (under the Land and Environment Court Act, 1979),".

Amendment of Act No. 34, 1954. Australian Oil Refining Limited Agreement Ratification Act, 1954—

- (1) (a) Section 7 (3)—
Omit "Land and Valuation Court" where firstly occurring, insert instead "Land and Environment Court".
- (b) Section 7 (3)—
Omit "office of the Registrar of the Land and Valuation".
- (c) Section 7 (4)—
Omit "Land and Valuation Court and the Judge thereof", insert instead "Land and Environment Court".
- (2) Section 10—
Omit the section.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

Port Kembla Inner Harbour Construction and Agreement Ratification Act, 1955— **Amendment
of Act No.
43, 1955.**

(1) Section 12 (3)—

Omit "Land and Valuation Court" where firstly occurring, insert instead "Land and Environment Court".

(2) Section 12 (3)—

Omit "in the office of the Registrar of the Land and Valuation Court", insert instead "in the Court".

(3) Section 12 (4)—

Omit "Land and Valuation Court and the Judge thereof", insert instead "Land and Environment Court".

Local Government (Regulation of Flats) Act, 1955—

**Amendment
of Act No.
50, 1955.**

(1) (a) Section 3 (1) (a)—

Omit "Local Government Appeals Tribunal constituted under Part XIIB of the Principal Act", insert instead "Land and Environment Court".

(b) Section 3 (1) (a)—

Omit "Tribunal" where secondly occurring, insert instead "Court".

(c) Section 3 (1) (c)—

Omit the paragraph.

(2) Section 7 (b) (ii), (iii)—

Omit the subparagraphs, insert instead:—

(ii) the Environmental Planning and Assessment Act, 1979; or

(iii) an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979,

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

Amendment of Act No. 10, 1956. Hunter Valley Flood Mitigation Act, 1956—

(1) Section 6—

Omit the section.

(2) Sections 22, 30 (2), 30 (3), 31 (3), 31 (4), 33, 35—

Omit “Land and Valuation Court” wherever occurring, insert instead “Land and Environment Court”.

Amendment of Act No. 26, 1956. Land Tax Management Act, 1956—

(1) Section 10 (1) (u) (ii)—

Omit “a planning scheme authorised by or under an Act”, insert instead “an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979”.

(2) (a) Section 59 (1)—

Omit “Land and Valuation Court constituted by the Land and Valuation Court Act, 1921, as amended by subsequent Acts”, insert instead “Land and Environment Court”.

(b) Section 59 (2)—

Omit “registrar of the Land and Valuation Court”, insert instead “Registrar of the Land and Environment Court”.

(3) Sections 60, 61—

Omit “Land and Valuation Court” wherever occurring, insert instead “Land and Environment Court”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

Mine Subsidence Compensation Act, 1961—

Amendment
of Act No.
22, 1961.

(1) Section 5 (2) (c) (ii)—

Omit "State Planning Authority of New South Wales", insert instead "Department of Environment and Planning".

(2) Section 12 (4) (a)—

Omit "Land and Valuation Court", insert instead "Land and Environment Court".

(3) (a) Section 15 (6) —

Omit "a responsible authority under a town or country planning scheme within the meaning of Part XIII A of the Local Government Act, 1919, as amended by subsequent Acts," insert instead "any person under the Environmental Planning and Assessment Act, 1979,".

(b) Section 15 (6)—

Omit "that responsible authority", insert instead "that person".

Clean Air Act, 1961—

Amendment
of Act No.
69, 1961.

(1) Section 5 (1), definition of "Court"—

After the definition of "Control equipment", insert:—

"Court" means the Land and Environment Court.

(2) Section 11 (6) (b)—

Omit "District".

(3) (a) Section 16 (3) (c)—

After "Local Government Act, 1919," insert "the Environmental Planning and Assessment Act, 1979, or an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979,".

(b) Section 16 (9) (b)—

Omit "District".

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

- (4) Section 17 (4) (b)—
Omit "District".
- (5) Section 20 (5) (b)—
Omit "District".
- (6) (a) Section 26 (1) (a)—
Omit ", in accordance with the rules of the District Court made in that behalf, appeal to the District Court", insert instead "appeal to the Court".
- (b) Section 26 (1) (a)—
Omit "that Court", insert instead "the Court".
- (c) Section 26 (1) (b), (d)—
Omit the paragraphs.
- (7) Section 30 (1), definition of "information"—
Omit "section 4 of the Supreme Court (Summary Jurisdiction) Act, 1967", insert instead "section 41 of the Land and Environment Court Act, 1979".
- (8) Section 33—
Omit "Supreme" wherever occurring.

Amendment of Act No. 7, 1962. Local Government (Town and Country Planning) Amendment Act, 1962—

Section 7—
Omit the section.

Amendment of Act No. 16, 1962. Australian Lubricating Oil Refinery Limited Agreement Ratification Act, 1962—

Section 7—
Omit the section.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

Cobar Water Supply Act, 1963—

Amendment
of Act No.
44, 1963.

(1) Section 13 (3)—

Omit “under the provisions of the Land and Valuation Court Act, 1921, as amended by subsequent Acts,”.

(2) Section 13 (3)—

Omit “as amended by subsequent Acts,” where secondly occurring, insert instead “by notification published in the Gazette”.

(3) Section 13 (3)—

After “made” where secondly occurring, insert “, and the Land and Environment Court has jurisdiction accordingly”.

State Development and Country Industries Assistance Act, 1966—

Amendment
of Act No.
10, 1966.

(1) Section 34k (1)—

Omit “State Planning Authority of New South Wales”, insert instead “Director of Environment and Planning”.

(2) Section 34k (1)—

Omit “Authority” where secondly occurring, insert instead “Director”.

(3) Section 34k (1)—

Omit “act on behalf of the Minister in the carrying out of”, insert instead “cause to be carried out in the Department of Environment and Planning on behalf of the Minister”.

(4) Section 34k (2)—

Omit “the State Planning Authority of New South Wales is not entitled to act on behalf of the Minister as referred to in”, insert instead “work may not be carried out in the Department of Environment and Planning on behalf of the Minister pursuant to”.

(5) Section 34k (2)—

Omit “to that Authority”, insert instead “or legal officer in that Department”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

Amendment Pipelines Act, 1967—
of Act No.
90, 1967.

- (1) Section 8 (2) (a)—
Omit “any town and country planning scheme referred to in Part XIIA of the Local Government Act, 1919”, insert instead “the Environmental Planning and Assessment Act, 1979, or any environmental planning instrument within the meaning of that Act”.
- (2) (a) Section 13 (4)—
Omit “An”, insert instead “Five additional copies of an”.
- (b) Section 13 (4)—
Omit “in quintuplicate”, insert instead “with the application”.
- (c) Section 13 (4)—
Omit “and the” where secondly occurring, insert instead “, the”.
- (d) Section 13 (4)—
After “Works”, insert “and the Minister for Planning and Environment”.
- (3) (a) Section 13A (8)—
Omit “A”, insert instead “Five additional copies of a”.
- (b) Section 13A (8)—
Omit “in quintuplicate”, insert instead “with the further application”.
- (c) Section 13A (8)—
Omit “and the” where secondly occurring, insert instead “, the”.
- (d) Section 13A (8)—
After “Highways”, insert “and the Minister for Planning and Environment”.
- (4) (a) Section 13B (4)—
Omit “The”, insert instead “Five additional copies of the”.
- (b) Section 13B (4)—
Omit “in quintuplicate”, insert instead “with the instrument”.
- (c) Section 13B (4)—
Omit “and the” where secondly occurring, insert instead “, the”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

- (d) Section 13B (4)—
After “Highways”, insert “and the Minister for Planning and Environment”.

- (5) (a) Section 16 (3)—
Omit “An”, insert instead “Five additional copies of an”.
- (b) Section 16 (3)—
Omit “in quintuplicate”, insert instead “with the application”.
- (c) Section 16 (3)—
Omit “and the” where secondly occurring, insert instead “, the”.
- (d) Section 16 (3)—
After “Highways”, insert “and the Minister for Planning and Environment”.

- (6) (a) Section 18 (8)—
Omit “An”, insert instead “Five additional copies of an”.
- (b) Section 18 (8)—
Omit “in quintuplicate”, insert instead “with the application”.
- (c) Section 18 (8)—
Omit “and the” where secondly occurring, insert instead “, the”.
- (d) Section 18 (8)—
After “Highways”, insert “and the Minister for Planning and Environment”.

- (7) (a) Section 22A (2)—
Omit “, 106.”.
- (b) Section 22A (4)—
Omit “determined as provided in section 9 of the Land and Valuation Court Act, 1921”, insert instead “disposed of as provided by section 24 of the Land and Environment Court Act, 1979”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

- (8) (a) Section 40 (b)—
Omit "Parts XI and XIIA", insert instead "Part XI".
- (b) Section 40 (b)—
After "Act", insert "and the Environmental Planning and Assessment Act, 1979,".

Amendment of Act No. 11, 1968. Sydney Farm Produce Market Authority Act, 1968—

- (1) Section 15 (4) (a)—
Omit the paragraph, insert instead:—
- (a) the question as to whether the land proposed as the site for the proposed public market is affected or controlled by the provisions of any environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979, and, if any such land is so affected, the question as to whether use thereof for the purposes of a public market is permissible under the instrument concerned;
- (2) Section 15 (5)—
Omit "town and country planning scheme, planning scheme or interim development order made, prescribed or issued by or under any Act", insert instead "environmental planning instrument referred to in subsection (4) (a)".

Amendment of Act No. 56, 1968. Sydney Cove Redevelopment Authority Act, 1968—

- Section 18 (2)—
Omit the subsection.

Amendment of Act No. 22, 1970. Land Development Contribution Management Act, 1970—

- (1) (a) Section 3 (1), definition of "Court"—
After the definition of "county council", insert:—
"Court" means the Land and Environment Court;
- (b) Section 3 (1), definition of "Land and Valuation Court"—
Omit the definition.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

- (2) (a) Section 22 (5)—
Omit “Land and Valuation”.
- (b) Section 22 (6)—
Omit the subsection, insert instead:—
(6) The Court shall have jurisdiction to hear and dispose of appeals forwarded to it under subsection (5).
- (3) (a) Section 24 (3)—
Omit “Land and Valuation”.
- (b) Section 24 (4)—
Omit “Land and Valuation Court Act, 1921”, insert instead “Land and Environment Court Act, 1979”.
- (c) Section 24 (4)—
Omit “Land and Valuation” where secondly occurring.
- (4) (a) Section 24A (7), (9) (b)—
Omit “Land and Valuation” wherever occurring.
- (b) Section 24A (8)—
Omit “Land and Valuation Court Act, 1921”, insert instead “Land and Environment Court Act, 1979”.
- (c) Section 24A (8)—
Omit “Land and Valuation” where secondly occurring.
- (5) Section 40 (2)—
Omit “Land and Valuation”.
- (6) (a) Section 48 (1)—
Omit “Land and Valuation”.
- (b) Section 48 (2)—
Omit “court”, insert instead “Court”.
- (7) (a) Section 49 (1)—
Omit the subsection, insert instead:—
(1) The Court shall have jurisdiction to hear and dispose of appeals made under section 48.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

(b) Section 49 (3)—
Omit "Land and Valuation".

(8) Section 50—

Omit the section, insert instead:—

Conse-
quential
procedure.

50. (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.

(9) Section 53 (1)—

Omit "the judge of the Land and Valuation Court", insert instead "a Judge or an assessor of the Court".

(10) Section 71—

Omit the section.

Amendment Dairy Industry Authority Act, 1970—
of Act No.
29, 1970.

Section 57 (1)—

Omit "Land and Valuation Court" wherever occurring, insert instead "Land and Environment Court".

Amendment Supreme Court Act, 1970—
of Act No.
52, 1970.

(1) Section 24 (6) (c)—

Omit the paragraph.

(2) Section 48 (1) (a), definition of "Specified tribunal"—

Omit subparagraph (i) of the definition, insert instead:—

(i) the Land and Environment Court or a Judge of the Court;

(3) Section 124 (1) (e), (f), (7)—

Omit "(other than the Judge of the Land and Valuation Court)" wherever occurring.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

Clean Waters Act, 1970—

Amendment
of Act No.
78, 1970.

- (1) (a) Section 2—
From the matter relating to Part II, omit “AND CLEAN WATERS APPEALS BOARD”.
- (b) Section 2—
From the matter relating to Part III, omit “15”, insert instead “14”.
- (2) (a) Section 5, definition of “Board”—
Omit the definition.
- (b) Section 5, definition of “Court”—
After the definition of “Committee”, insert:—
“Court” means the Land and Environment Court;
- (3) Part II, heading—
Omit “AND CLEAN WATERS APPEALS BOARD”.
- (4) Section 9—
Omit the section.
- (5) (a) Section 10 (1)—
Omit the subsection.
- (b) Section 10—
Omit “a body constituted under this Part” wherever occurring, insert instead “the Committee”.
- (c) Section 10 (2), (3)—
Omit “that body” wherever occurring, insert instead “the Committee”.
- (d) Section 10 (5), (7), (10), (11)—
Omit “the body” wherever occurring, insert instead “the Committee”.
- (e) Section 10 (7)—
Omit “, in the case of a member of the Committee,”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

- (6) Section 13 (2)—
Omit “forward it to the Board”, insert instead “refer it to the Court”.
- (7) (a) Section 14 (1), (3)—
Omit “Board” wherever occurring, insert instead “Court”.
- (b) Section 14 (2)—
Omit the subsection.
- (8) Section 15—
Omit the section.
- (9) Sections 16 (5) (b), 20 (7)—
Omit “Board” wherever occurring, insert instead “Court”.
- (10) (a) Section 25 (1), (2), (4), (5)—
Omit “Board” wherever occurring, insert instead “Court”.
- (b) Section 25 (3)—
Omit the subsection.
- (11) (a) Section 32 (1)—
Omit “Commission,”, insert instead “Commission or”.
- (b) Section 32 (1)—
Omit “or the chairman of the Board”.
- (c) Section 32 (2)—
Omit the subsection.
- (d) Section 32 (4) (a)—
Omit “or” where lastly occurring.
- (e) Section 32 (4) (b)—
Omit the paragraph.
- (12) Section 33—
Omit “Supreme” wherever occurring.
- (13) Section 36 (1) (j)—
Omit the paragraph.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

Waste Disposal Act, 1970—

Amendment
of Act No.
97, 1970.

(1) Section 5, definition of "Court"—

After the definition of "council", insert :—

"Court" means the Land and Environment Court;

(2) Section 18—

Omit "and the provisions of Part XIII A of the Local Government Act, 1919, and any ordinance or interim development order made under that Part", insert instead " , the Environmental Planning and Assessment Act, 1979, and any environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979".

(3) Section 40 (3) (b)—

Omit "the", insert instead "that".

(4) Section 55—

Omit "Supreme" wherever occurring.

Land Aggregation Tax Management Act, 1971—

Amendment
of Act No.
18, 1971.

(1) (a) Section 59 (1)—

Omit "Land and Valuation Court constituted by the Land and Valuation Court Act, 1921", insert instead "Land and Environment Court".

(b) Section 59 (2)—

Omit "registrar of the Land and Valuation Court", insert instead "Registrar of the Land and Environment Court".

(2) Sections 60, 61—

Omit "Land and Valuation Court" wherever occurring, insert instead "Land and Environment Court".

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

Amendment of Act No. 48, 1972. Acts Reprinting Act, 1972—

Section 13—

Omit the section, insert instead :—

Application of certain provisions of this Act to certain instruments.

13. The provisions of sections 4, 5, 6 and 7 apply to and in respect of—

- (a) an ordinance made under the Local Government Act, 1919;
- (b) a regulation or by-law made under the Metropolitan Water, Sewerage, and Drainage Act, 1924, the Hunter District Water, Sewerage and Drainage Act, 1938, or the Broken Hill Water and Sewerage Act, 1938; or
- (c) an environmental planning instrument within the meaning of the **Environmental Planning and Assessment Act, 1979.**

Amendment of Act No. 42, 1973. Mining Act, 1973—

(1) Section 113 (1A), (1B)—

After section 113 (1), insert:—

(1A) The Minister shall, before a recommendation is made to the Governor for the granting of a mining lease or a mining purposes lease, cause to be served on the Director of Environment and Planning a notice—

- (a) stating that an application for the lease has been lodged;
- (b) containing a description or a plan of the area of land over which the lease is sought;
- (c) containing a detailed description of the works to be undertaken by or on behalf of the applicant if the lease is granted, including works and activities relating to—
 - (i) the preparation of the land for mining; and
 - (ii) the reinstatement of the land either during the carrying on of mining operations or after they have ceased;
- (d) containing a copy of the environmental impact statement that is required by Part V of the **Environmental Planning and Assessment Act, 1979**, to be prepared in relation to the application; and

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

(e) stating that objections to the granting of the lease, or proposals for the inclusion in the lease of any condition, may be made to the Minister within the period specified in the notice.

(1B) Where, before the recommendation referred to in subsection (1A) is made, the Minister becomes aware that the detailed description contained in a notice previously served under that subsection requires alteration for any reason, he shall, before the recommendation is made, cause to be served on the Director of Environment and Planning a further notice under that subsection in relation to the application.

(2) Section 113 (2)—

Omit “or a statutory authority”, insert instead “, a statutory authority or the Director of Environment and Planning”.

(3) Section 113 (2)—

After “(1)”, insert “or (1A)”.

(4) (a) Section 115 (1)—

Omit “a scheme (as defined in section 116)”, insert instead “an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979”.

(b) Section 115 (4) (b)—

Omit “Part XIIA of the Local Government Act, 1919, or an ordinance, order or proclamation made for the purposes of that Part”, insert instead “the Environmental Planning and Assessment Act, 1979, or an environmental planning instrument within the meaning of that Act”.

(c) Section 115 (4) (b)—

Omit “Part or such an ordinance, order or proclamation”, insert instead “Act or any such instrument”.

(5) (a) Section 116 (1)—

Omit “a scheme”, insert instead “the Environmental Planning and Assessment Act, 1979,”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

(b) Section 116 (4)—

Omit "Part XIIA of the Local Government Act, 1919, or an ordinance, order or proclamation made for the purposes of that Part", insert instead "the Environmental Planning and Assessment Act, 1979, or an environmental planning instrument within the meaning of that Act".

(c) Section 116 (4)—

Omit "Part or such an ordinance, order or proclamation", insert instead "Act or any such instrument".

(d) Section 116 (9), definition of "scheme"—

Omit the definition.

Amendment of Act No. 47, 1973. Private Irrigation Districts and Water (Amendment) Act, 1973—

(1) Section 1—

Omit "and Water (Amendment)".

(2) Sections 12, 39 (2), 43 (b), 44 (1), 45, 46 (c)—

Omit "Land and Valuation Court" wherever occurring, insert instead "Land and Environment Court".

Amendment of Act No. 68, 1973. Strata Titles Act, 1973—

(1) Section 36—

After "Conveyancing Act, 1919," insert "the Environmental Planning and Assessment Act, 1979,".

(2) Section 37 (1) (b) (i), (ii)—

Omit the subparagraphs, insert instead :—

- (i) separate occupation of the proposed lots illustrated by that plan will not contravene the provisions of the Environmental Planning and Assessment Act, 1979, or of any environmental planning instrument within the meaning of that Act;
- (ii) any consent required under that Act or instrument has been given in relation to the separate occupation of the proposed lots illustrated by that plan; and

*Miscellaneous Acts (Planning) Repeal and Amendment.*SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

- (3) (a) Section 40 (4) (c)—
Omit “except as provided in paragraph (d),”.
- (b) Section 40 (4) (c)—
Omit “senior chairman of the Tribunal”, insert instead “Land and Environment Court”.
- (c) Section 40 (4) (c)—
Omit “or” where lastly occurring.
- (d) Section 40 (4) (d)—
Omit the paragraph.
- (e) Section 40 (4)—
Omit “Local Government Appeals Tribunal constituted under Part XIIb of the Local Government Act, 1919”, insert instead “Land and Environment Court”.
- (f) Section 40 (5)—
Omit “Local Government Appeals Tribunal”, insert instead “Land and Environment Court”.

Coal Mining Act, 1973—

Amendment
of Act No.
81, 1973.

- (1) Sections 25 (6) and 68 (2)—
Omit “a scheme (as defined in section 90)” wherever occurring, insert instead “an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979”.
- (2) Section 87 (3A), (3B)—
After section 87 (3), insert :—
(3A) The Minister shall, before a recommendation is made to the Governor for the granting of a coal lease, cause to be served on the Director of Environment and Planning a notice—
- (a) stating that an application for the lease has been lodged;
 - (b) containing a description or a plan of the area of land over which the lease is sought;
 - (c) containing a detailed description of the works to be undertaken by or on behalf of the applicant if the lease is granted, including works and activities relating to—
 - (i) the preparation of the land for mining; and
 - (ii) the reinstatement of the land either during the carrying on of mining operations or after they have ceased;

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

- (d) containing a copy of the environmental impact statement that is required by Part V of the Environmental Planning and Assessment Act, 1979, to be prepared in relation to the application; and
- (e) stating that objections to the granting of the lease (not being an objection relating to the safety of a prescribed dam), or proposals for the inclusion in the lease of any condition (not being a condition relating to the safety of a prescribed dam), may be made to the Minister within the period specified in the notice.

(3B) Where, before the recommendation referred to in subsection (3A) is made, the Minister becomes aware that the detailed description contained in a notice previously served under that subsection requires alteration for any reason, he shall, before the recommendation is made, cause to be served on the Director of Environment and Planning a further notice under that subsection in relation to the application.

(3) Section 87 (4)—

Omit “or a statutory authority”, insert instead “, a statutory authority or the Director of Environment and Planning”.

(4) Section 87 (4)—

Omit “or (3)”, insert instead “, (3) or (3A)”.

(5) (a) Section 89 (1), (3)—

Omit “a scheme (as defined in section 90)” wherever occurring, insert instead “an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979”.

(b) Section 89 (6) (b)—

Omit “Part XIIA of the Local Government Act, 1919, or an ordinance, order or proclamation made for the purpose of that Part”, insert instead “the Environmental Planning and Assessment Act, 1979, or an environmental planning instrument within the meaning of that Act”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

(c) Section 89 (6) (b)—

Omit “Part or such an ordinance, order or proclamation”,
insert instead “Act or any such instrument”.

(6) Section 90, definition of “scheme”—

Omit the definition.

(7) (a) Section 91 (1)—

Omit “a scheme”, insert instead “the Environmental Planning
and Assessment Act, 1979,”.

(b) Section 91 (4)—

Omit “Part XIIA of the Local Government Act, 1919, or an
ordinance, order or proclamation made for the purposes of
that Part”, insert instead “the Environmental Planning and
Assessment Act, 1979, or an environmental planning instrument
within the meaning of that Act”.

(c) Section 91 (4)—

Omit “Part or such an ordinance, order or proclamation”,
insert instead “Act or any such instrument”.

Growth Centres (Land Acquisition) Act, 1974—

**Amendment
of Act No.
1, 1974.**

(1) (a) Section 2 (1), definition of “appropriate Court”—

Omit the definition.

(b) Section 2 (1), definition of “Court”—

After the definition of “council”, insert:—

“Court” means the Land and Environment Court;

(c) Section 2 (1), definition of “Land and Valuation Court”—

Omit the definition.

(2) (a) Section 7 (1), (2), (3)—

Omit “appropriate” wherever occurring.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

(b) Section 7 (6)—

Omit “thereunder”, insert instead “under the Local Government Act, 1919, or the Environmental Planning and Assessment Act, 1979, or an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979”.

(3) Section 8 (1) (b)—

Omit “appropriate”.

(4) Section 9 (5), (6)—

Omit “appropriate” wherever occurring.

(5) (a) Section 10 (2) (a) (ii)—

After “proceedings;”, insert “and”.

(b) Section 10 (2) (b)—

Omit “pending; and”, insert instead “pending”.

(c) Section 10 (2) (c)—

Omit the paragraph.

(d) Section 10 (2)—

Omit “rules of court of the Supreme Court”, insert instead “rules of the Court”.

(e) Section 10 (2)—

Omit “Supreme” where secondly occurring.

(f) Section 10 (4)—

Omit the subsection.

(g) Section 10 (5)—

Omit “Upon remission to the Land and Valuation Court of”, insert instead “In”.

(h) Section 10 (5)—

Omit “that Court”, insert instead “the Court”.

(i) Section 10 (6)—

Omit “Land and Valuation”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

- (j) Section 10 (7)—
Omit “Land and Valuation Court Act, 1921”, insert instead “Land and Environment Court Act, 1979”.
- (k) Section 10 (7)—
Omit “Land and Valuation” where secondly occurring.
- (l) Section 10 (7)—
Omit “that Court”, insert instead “the Court”.
- (m) Section 10 (8)—
Omit “Land and Valuation”.
- (n) Section 10 (8)—
Omit “that Court”, insert instead “the Court”.
- (o) Section 10 (9)—
Omit the subsection, insert instead:—
(9) Nothing in this section affects the rule-making powers conferred by the Land and Environment Court Act, 1979.

Albury-Wodonga Development Act, 1974—

Amendment
of Act No.
47, 1974.

- (1) Section 3, matter relating to Schedule 4—
Omit “LOCAL GOVERNMENT ACT, 1919”, insert instead “ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979”.
- (2) (a) Section 4, definition of “environmental planning instrument”—
After the definition of “Development Corporation”, insert:—
“environmental planning instrument” means an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979;
- (b) Section 4, definition of “interim development order”—
Omit the definition.
- (c) Section 4, definition of “planning scheme”—
Omit the definition.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

- (3) Section 9 (2) (i)—
Omit “interim development order or planning scheme”, insert instead “environmental planning instrument”.
- (4) Section 14 (2) (b)—
Omit “planning scheme or interim development order”, insert instead “environmental planning instrument”.
- (5) (a) Section 23 (1)—
Omit “Part XIIA of the Local Government Act, 1919”, insert instead “the Environmental Planning and Assessment Act, 1979”.
- (b) Section 23 (1)—
Omit “that Part”, insert instead “that Act”.
- (c) Section 23 (1) (b)—
Omit “local government area,”, insert instead “local government area.”.
- (d) Section 23 (1)—
Omit “but a reference in section 342G (5) (a), 342L (2) (b) (iii) or 342V (1A) of that Act to a council does not include a reference to the Development Corporation.”.
- (e) Section 23 (2)—
Omit “Part XIIA of the Local Government Act, 1919”, insert instead “the Environmental Planning and Assessment Act, 1979”.
- (f) Section 23 (3)—
Omit the subsection.
- (g) Section 23 (4)—
Omit the subsection, insert instead:—
(4) Where an environmental planning instrument provides that such development in respect of land as is specified in that environmental planning instrument shall not be consented to without consultation with the Development Corporation, and a difference arises between the council of the area in which that land is situated and the Development Corporation in relation to the granting of consent, that council shall not grant consent until the difference is determined.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

- (h) Section 23 (5)—
Omit the subsection.
- (i) Section 23 (6)—
Omit “approval, consent or permission”, insert instead
“consent”.
- (j) Section 23 (6)—
Omit “or (5)”.
- (k) Section 23 (7)—
Omit “or (5)”.
- (l) Section 23 (9)—
Omit the subsection, insert instead :—
(9) In Schedule 4, “Development Corporation” has the
meaning ascribed thereto in section 4.
- (6) Section 35—
Omit the section.
- (7) Schedule 4—
Omit the Schedule, insert instead:—

SCHEDULE 4.

Sec. 23.

MODIFICATION OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT
ACT, 1979.

The Environmental Planning and Assessment Act, 1979, shall,
for the purposes referred to in section 23 (2), be deemed to be
amended—

- (a) by omitting from section 97 (1) the words “appeal to the
Court” and by inserting instead the words “appeal, in the
case where the consent authority is required by an environ-
mental planning instrument to consult with the Develop-
ment Corporation before giving the consent, to the Minister
and, in any other case, to the Court,”;

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

(b) by inserting after section 97 (4) the following subsections :—

(5) Where an appeal has been made to the Minister under this section, he may—

- (a) dismiss the appeal;
- (b) allow the appeal either unconditionally or subject to such conditions as he thinks proper to impose; or
- (c) where the appeal is against the imposition of conditions, refuse to approve the application referred to in the appeal.

(6) The decision of the Minister under subsection (5) shall be final and shall have effect as if it were a decision of the consent authority.

Amendment of Act No. 49, 1974. Growth Centres (Development Corporations) Act, 1974—

(1) Section 2—

Omit "LOCAL GOVERNMENT ACT, 1919", insert instead "ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979".

(2) (a) Section 3 (1), definition of "environmental planning instrument"—

After the definition of "description", insert :—

"environmental planning instrument" means an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979;

(b) Section 3 (1), definition of "interim development order"—

Omit the definition.

(c) Section 3 (1), definition of "planning scheme"—

Omit the definition.

(3) Section 8 (1) (j)—

Omit "interim development order or planning scheme", insert instead "environmental planning instrument".

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

(4) (a) Section 23 (1A)—

After section 23 (1), insert :—

(1A) The Minister administering the Environmental Planning and Assessment Act, 1979, may, by order published in the Gazette, transfer to a corporation specified in the order such of the powers, authorities, duties and functions conferred or imposed on a council by or under that Act as are specified or described in the order.

(b) Section 23 (3)—

After “Local Government Act, 1919,” insert “and the Environmental Planning and Assessment Act, 1979,”.

(5) (a) Section 31 (1)—

Omit “Part XIII~~A~~ of the Local Government Act, 1919”, insert instead “the Environmental Planning and Assessment Act, 1979”.

(b) Section 31 (2)—

Omit the subsection, insert instead :—

(2) Where an environmental planning instrument provides that such development in respect of land as is specified in that environmental planning instrument shall not be consented to without consultation with a corporation, and a difference arises between the council of the area in which that land is situated and the corporation in relation to the granting of consent, that council shall not grant consent until the difference is determined.

(c) Section 31 (3)—

Omit the subsection.

(d) Section 31 (4)—

Omit “approval, consent or permission”, insert instead “consent”.

(e) Section 31 (4)—

Omit “or (3)”.

(f) Section 31 (5)—

Omit “or (3)”.

(g) Section 31 (7)—

Omit the subsection, insert instead :—

(7) In Schedule 5, “corporation” has the meaning ascribed thereto in section 3.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

(6) Schedule 5—

Omit the Schedule, insert instead :—

Sec. 31.

SCHEDULE 5.

MODIFICATION OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979.

The Environmental Planning and Assessment Act, 1979, shall, for the purposes referred to in section 31, be deemed to be amended—

(a) by omitting from section 97 (1) the words “appeal to the Court” and by inserting instead the words “appeal, in the case where the consent authority is required by an environmental planning instrument to consult with a corporation before giving the consent, to the Minister and, in any other case, to the Court,”;

(b) by inserting after section 97 (4) the following subsections :—

(5) Where an appeal has been made to the Minister under this section, he may—

(a) dismiss the appeal;

(b) allow the appeal either unconditionally or subject to such conditions as he thinks proper to impose;
or

(c) where the appeal is against the imposition of conditions, refuse to approve the application referred to in the appeal.

(6) The decision of the Minister under subsection (5) shall be final and shall have effect as if it were a decision of the consent authority.

Amendment of Act No. 72, 1974. Technical and Further Education Act, 1974—

Section 29 (6)—

Omit the subsection, insert instead:—

(6) A claim for compensation under this Act shall be dealt with as if it were a case in which a claim for compensation had been made by reason of the acquisition of land for public purposes under the Public Works Act, 1912, by notification published in the Gazette, and the Land and Environment Court has jurisdiction accordingly.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

Noise Control Act, 1975—

**Amendment
of Act No.
35, 1975.**

(1) Section 4 (1), definition of "Court"—

After the definition of "Committee", insert:—

"Court" means the Land and Environment Court;

(2) Section 20 (4) (b)—

Omit "District".

(3) (a) Section 27 (9) (b)—

Omit "District".

(b) Section 27 (14)—

After "Local Government Act, 1919," insert "the Environmental Planning and Assessment Act, 1979, or an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979,".

(4) Section 38 (b)—

Omit "District".

(5) (a) Section 68 (1)—

Omit ", in accordance with the rules of the District Court made in that behalf, appeal to the District Court", insert instead "appeal to the Court".

(b) Section 68 (2), (3)—

Omit the subsections.

(c) Section 68 (4)—

Omit "District".

(6) (a) Section 69 (1)—

Omit ", in accordance with the rules of the District Court made in that behalf, appeal to the District Court", insert instead "appeal to the Court".

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

(b) Section 69 (2), (3)—

Omit the subsections.

(c) Section 69 (4)—

Omit "District".

(7) Section 82—

Omit "Supreme" wherever occurring.

Amendment of Act No. 51, 1975. Whittingham to Mount Thorley Railway Act, 1975—
Section 6—

After "under that Act", insert ", of the Environmental Planning and Assessment Act, 1979, or an environmental planning instrument within the meaning of that Act,".

Amendment of Act No. 4, 1976. Statutory and Other Offices Remuneration Act, 1975—
(1) Schedule 2, Part 1—

Omit:—

Chairman of the New South Wales Planning and Environment Commission.

Commissioner, appointed on a nomination pursuant to section 6 (2) (a) of the New South Wales Planning and Environment Commission Act, 1974, other than the Chairman.

(2) Schedule 2, Part 1—

At the end of the Part, insert:—

Director of Environment and Planning.

Commissioner of Inquiry (under the Environmental Planning and Assessment Act, 1979).

Senior assessor (under the Environmental Planning and Assessment Act, 1979).

Assessor (under the Environmental Planning and Assessment Act, 1979).

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

Traffic Authority Act, 1976—

Amendment
of Act No.
32, 1976.

(1) Section 4 (2)—

Omit “a commissioner of the New South Wales Planning and Environment Commission”, insert instead “the Director of Environment and Planning”.

(2) (a) Section 7 (1) (a) (iv)—

Omit the subparagraph, insert instead:—

(iv) the Director of Environment and Planning; and

(b) Section 7 (6)—

Omit the subsection.

Land Commission Act, 1976—

Amendment
of Act No.
62, 1976.

(1) Section 10 (1) (h)—

Omit “interim development order, or prescribed scheme, made under Part XIIA of the Local Government Act, 1919, and”, insert instead “environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979,”.

(2) (a) Section 18 (2)—

Omit “by the New South Wales Planning and Environment Commission”, insert instead “within the Department of Environment and Planning”.

(b) Section 18 (2)—

Omit “that Commission”, insert instead “that Department”.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

(3) Section 26 (6) (b)—

Omit the paragraph, insert instead:—

- (b) if he is an officer within the meaning of the Environmental Planning and Assessment Act, 1979, or a person who is a member of a committee or subcommittee established by or under the Environmental Planning and Assessment Act, 1979;

Amendment of Act No. 38, 1977. Chipping Norton Lake Authority Act, 1977—

(1) Section 10 (6)—

Omit "Local Government Appeals Tribunal constituted under the Local Government Act, 1919," insert instead "Land and Environment Court".

(2) Section 10 (6)—

Omit "that Act", insert instead "the Local Government Act, 1919".

Amendment of Act No. 61, 1977. Irrigation Areas (Conversion of Leases) Act, 1977—

Section 8—

Omit "Land and Valuation Court", insert instead "Land and Environment Court".

Amendment of Act No. 13, 1979. Coastal Protection Act, 1979—

(1) (a) Section 9 (1)—

Omit "9 members", insert instead "10 members".

(b) Section 9 (2) (a)—

Omit the paragraph, insert instead :—

- (a) a person nominated by the Minister, being an officer of the Department within the meaning of the Environmental Planning and Assessment Act, 1979;

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

(c) Section 9 (2) (g)—

Omit “and” where secondly occurring.

(d) Section 9 (2) (h)—

Omit “protection.”, insert instead “protection; and”.

(e) Section 9 (2) (i)—

After section 9 (2) (h), insert :—

- (i) a person nominated by the Minister for Lands, being an officer of the Department of Lands.

(f) Section 9 (3)—

Omit “(f) and (g)”, insert instead “(f), (g) and (i)”.

(2) Section 15 (g)—

After “(a)–(g)”, insert “or (i)”.

(3) Section 39 (3)—

Omit the subsection, insert instead :—

(3) The provisions of a regulation made pursuant to subsection (2) do not apply to or in respect of an area that is subject to an environmental planning instrument within the meaning of the Environmental Planning and Assessment Act, 1979, other than a State environmental planning policy.

Public Service Act, 1979—

Amendment
of Act No.
89, 1979.

(1) Schedule 2, Part 1—

After the matter relating to the Auditor-General’s Department, insert :—

Department of Environ- ment and Planning.		Director of Environment and Planning.
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(2) Schedule 2, Part 1—

Omit the matter relating to the New South Wales Planning and Environment Commission.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

PART 2.

Amendment Criminal Appeal Act, 1912—
of Act No.
16, 1912. Section 29—

After “28”, insert “or in section 5AA (6) as applied by section 5AB”.

Amendment Bail Act, 1978—
of Act No.
161, 1978.

(1) (a) Section 3—

From the matter relating to Part IV, omit “22–30”, insert instead “22–30A”.

(b) Section 3—

After the matter relating to Division 5 of Part IV, insert:—
DIVISION 6.—*Land and Environment Court—s. 30A.*

(2) (a) Section 4 (1), definition of “court”—

After paragraph (b), insert:—
(b1) the Land and Environment Court;

(b) Section 4 (1), definition of “Judge”—

After “Appeal”, insert “, Land and Environment Court”.

(c) Section 4 (1), definition of “Land and Environment Court”—

After the definition of “justice”, insert:—
“Land and Environment Court” includes a Judge of the
Land and Environment Court;

(3) Part IV, Division 6—

After Part IV, Division 5, insert:—

DIVISION 6.—*Land and Environment Court.*

Power of
Land and
Environ-
ment
Court to
grant bail.

30A. The Land and Environment Court may grant bail in accordance with this Act to a person accused of an offence, where proceedings for the offence are pending in that Court under the Land and Environment Court Act, 1979.

*Miscellaneous Acts (Planning) Repeal and Amendment.*SCHEDULE 2—*continued.*AMENDMENTS—*continued.*

Land and Environment Court Act, 1979—

(1) Sections 42, 42A—

Omit section 42, insert instead :—

42. Where any person apprehended pursuant to an order made under section 41 (1) (b) is brought before a Judge, the Judge shall, subject to the Bail Act, 1978, by warrant commit him to prison and order him to be there detained until he is brought before a Judge at a time and place specified in the order to answer to the offence with which he is charged.

42A. (1) The registrar shall, as soon as practicable after the making of any order under section 42, cause notice of the order to be given to the prosecutor.

(2) The registrar shall, as soon as practicable after a notice is given or sent (as referred to in section 34 of the Bail Act, 1978) to a person referred to in section 42, cause a copy of the notice to be given to the prosecutor.

Amendment of Land and Environment Court Act, 1979.

Powers of Judge where defendant apprehended.
cf. No. 72, 1967, s. 5.

Notices to be given to prosecutor.
cf. No. 72, 1967, s. 5A.

(2) Section 45—

Omit the section, insert instead :—

45. Where the hearing of the proceedings for an offence punishable in the summary jurisdiction of the Court is adjourned, whether under section 44 or otherwise, the Judge before whom the proceedings are taken may, subject to the Bail Act, 1978, by warrant commit the defendant to prison and order him to be there detained until he is brought before the Judge at a time and place specified in the order to answer further to the offence with which he is charged.

How defendant dealt with during adjournment.
cf. No. 72, 1967, s. 7.

(3) Section 47—

Omit "42 (1)" wherever occurring, insert instead "42".

(4) Section 47 (2)—

At the end of section 47, insert :—

(2) If, upon the day and at the time and place specified in a notice referred to in section 42A (2), the prosecutor does not appear in person or by his counsel or attorney, but the defendant attends,

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS—*continued.*

and the prosecutor has received a copy of the notice, the Judge shall dismiss the charge unless for some reason he thinks it proper to adjourn the hearing.

Sec. 6.

SCHEDULE 3.

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpre-
tation.

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

“appointed day” means the day appointed and notified under section 2 (2) of the Environmental Planning and Assessment Act, 1979;

“Authority” means the State Planning Authority of New South Wales as constituted under the State Planning Authority Act, 1963;

“Commission” means the New South Wales Planning and Environment Commission as constituted under the New South Wales Planning and Environment Commission Act, 1974;

“former planning instrument” means a prescribed scheme or an interim development order or The Town and Country Planning (General Interim Development) Ordinance;

“former tribunal” means the Land and Valuation Court, the Local Government Appeals Tribunal, a Valuation Board of Review or the Clean Waters Appeals Board;

“interim development order” means an interim development order within the meaning of Part XIA;

“new Court” means the Land and Environment Court;

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 3—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

“Part XIIA” means Part XIIA of the Local Government Act, 1919, as in force at any time;

“prescribed scheme” means a prescribed scheme within the meaning of Part XIIA;

“regulations” means regulations under clause 38.

(2) Except in so far as the context or subject-matter otherwise indicates or requires, expressions used in this Schedule have the same meanings as in the Environmental Planning and Assessment Act, 1979.

(3) In this Schedule, a reference to a subclause is, unless a contrary intention appears, a reference to a subclause of the clause in which the reference occurs.

2. (1) A former planning instrument, as in force immediately before the appointed day, shall, subject to this Act have full force and effect according to its tenor and shall be deemed to be a deemed environmental planning instrument. Former planning instruments.

(2) Where, in the opinion of the Minister, a provision of a former planning instrument is inconsistent with or contains a provision that deals with the same or like matter which is dealt with by any provision of the Environmental Planning and Assessment Act, 1979, or the regulations thereunder, the Minister may, by order published in the Gazette, amend the former planning instrument in such a manner as, in his opinion, will remove the inconsistency or the provision dealing with the same or like matter, as the case may be, but no such order shall take effect before the appointed day.

3. (1) Where, immediately before the appointed day, a scheme under Part XIIA has reached a stage of preparation which, in the opinion of the Minister, warrants completion in accordance with this clause, the Minister may, by order published in the Gazette, direct that further preparation of that scheme be continued in accordance with such of the provisions of Part Schemes in preparation.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 3—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

III of the Environmental Planning and Assessment Act, 1979, as are specified in that order as if that scheme were a draft environmental planning instrument.

(2) A scheme prepared in accordance with directions given pursuant to subclause (1) shall, if made by the Minister, be deemed to be an environmental planning instrument notwithstanding any failure to comply with the provisions of Part III of the Environmental Planning and Assessment Act, 1979, with respect to the making of such an instrument.

(3) A scheme, the subject of an order made under subclause (1), which has received a certificate under section 342F (2) or 342GB (2) of the Local Government Act, 1919, shall be deemed to be a draft environmental planning instrument within the meaning of section 90 (1) (a) (ii) of the Environmental Planning and Assessment Act, 1979.

(4) In subclauses (1) and (2), a reference to a scheme includes a reference to—

- (a) an interim development order; and
- (b) an instrument prepared or in the course of preparation by the Commission or by a regional planning committee constituted under Part IV of the State Planning Authority Act, 1963, and declared by the Minister to be an instrument to which this clause applies.

Model provisions.

4. The provisions of any standard or model provisions, adopted wholly or partially by reference by a former planning instrument, in accordance with section 342U (3) of the Local Government Act, 1919, shall be deemed, for the purposes of that instrument, to be a set of model provisions made under section 33 of the Environmental Planning and Assessment Act, 1979, and may be amended or revoked accordingly.

Applications.

5. (1) Where, immediately before the appointed day, an application for consent, approval or permission under a former planning instrument has not been finally determined, the application shall, subject to this clause, be determined as if this Act and the Environmental Planning and Assessment Act, 1979, had not been enacted.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(2) For the purposes of subclause (1), an application is not finally determined unless—

- (a) consent, approval or permission is granted or refused in respect of that application and no appeal is lodged within a period of 12 months from the date of granting or refusing the application; or
- (b) where an appeal is lodged within the period of 12 months referred to in paragraph (a)—that appeal is finally disposed of.

(3) An appeal that would, but for this subclause, be made on or after the appointed day to a former tribunal in relation to any matter referred to in this clause shall be made to the new Court, and shall, for the purposes of the Land and Environment Court Act, 1979, be treated as an appeal under section 97 of the Environmental Planning and Assessment Act, 1979.

6. A provision of a former planning instrument to the effect that development may not be carried out except with a specified consent, approval or permission shall be deemed to be a provision to the effect that that development may not be carried out except with consent under the Environmental Planning and Assessment Act, 1979, being obtained therefor.

Development prohibited except with consent.

7. (1) Any consent, approval or permission granted in respect of an application made under a former planning instrument, and in force immediately before the appointed day, shall, subject to subclause (2), continue in full force and effect subject to—

Consents, approvals and permissions.

- (a) the operation of any provision of that instrument or any term or condition of that consent, approval or permission governing or relating to the currency, duration or continuing legal effect of that consent, approval or permission; and
- (b) the operation of any condition (other than that referred to in paragraph (a)), restriction or limitation, subject to which that consent, approval or permission was granted.

(2) Where no provision or term or condition of the type referred to in subclause (1) (a) operates in respect of a consent, approval or permission therein mentioned, the provisions of section 99 of the Environmental

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 3—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

Planning and Assessment Act, 1979, shall apply to that consent, approval or permission as if it were a consent referred to in that section which had taken effect on the appointed day.

(3) The provisions of section 103 of the Environmental Planning and Assessment Act, 1979, shall apply to a consent referred to in subclause (1) as if that consent were a consent referred to in that section.

Directions under s. 342v (3) of Local Government Act, 1919. 8. A direction given under section 342v (3) of the Local Government Act, 1919, and in force immediately before the appointed day shall be deemed to be a direction given in the same terms under section 101 of the Environmental Planning and Assessment Act, 1979.

Proclamations under s. 313 (j) of Local Government Act, 1919. 9. A proclamation under section 313 (j) of the Local Government Act, 1919, and in force immediately before the appointed day shall be deemed to have been made under section 313 (2) (b) of that Act, as amended by this Act.

Proclamations under s. 314A of Local Government Act, 1919. 10. A proclamation under section 314A of the Local Government Act, 1919, and in force immediately before the appointed day continues in force as if that section had not been repealed by this Act, but may be amended or repealed by an environmental planning instrument.

Ordinances under s. 342u (2) of Local Government Act, 1919. 11. An ordinance under section 342u (2) of the Local Government Act, 1919, and in force immediately before the appointed day continues in force, but may be amended by an environmental planning instrument or repealed by a State environmental planning policy.

Resumptions and appropriations. 12. (1) Land reserved or zoned for a public purpose by a deemed environmental planning instrument shall be deemed for the purposes of section 116 of the Environmental Planning and Assessment Act, 1979, to be land reserved for that purpose pursuant to section 26 (c) of that Act.

*Miscellaneous Acts (Planning) Repeal and Amendment.*SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(2) Upon the resumption or appropriation of land referred to in subclause (1)—

- (a) any compensation recovered under section 342AC of the Local Government Act, 1919, in respect of the reservation or zoning shall be deducted from the compensation otherwise payable by virtue of the resumption or appropriation; and
- (b) no compensation under that section is payable in respect of a claim referred to in clause 13.

13. Where a claim for compensation under section 342AC of the Local Government Act, 1919, was made before the appointed day, but proceedings to enforce that claim have not been instituted or completed as at that day, that claim may, subject to clause 12, be enforced as if this Act and the Environmental Planning and Assessment Act, 1979, had not been enacted.

14. (1) On and from the appointed day, a reference in any other Act or in any regulation, by-law or other statutory instrument, or in any other document, whether of the same or of a different kind—

- (a) to Part XIIA shall be read and construed as a reference to the Environmental Planning and Assessment Act, 1979;
- (b) to any provision of that Part shall be read and construed as a reference to the corresponding provision, if any, of the Environmental Planning and Assessment Act, 1979;
- (c) to a specified prescribed scheme or an interim development order made under that Part shall be read and construed as a reference to the deemed environmental planning instrument that that prescribed scheme or interim development order is deemed by this Schedule to be;
- (d) to a prescribed scheme or an interim development order made under that Part, that is not identified by the reference, shall be read and construed as a reference to an environmental planning instrument;
- (e) except as provided in paragraph (d), to a planning scheme prepared under that Part shall be read and construed as a reference to a draft local environmental plan in respect of which a certificate has been issued under section 65 of the Environmental Planning and Assessment Act, 1979; and

Compensation.

Construction of references to Part XIIA, schemes, etc.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (f) to prescribed qualifications with respect to town or country planning shall be read and construed as a reference to qualifications in environmental planning prescribed under the Environmental Planning and Assessment Act, 1979,

subject to the regulations and except in so far as the context or subject-matter otherwise indicates or requires.

(2) Subclause (1) does not apply to references in section 254_A of the Crown Lands Consolidation Act, 1913, the Land Development Contribution Management Act, 1970, or any other prescribed enactments, instruments or documents.

Agreements under s. 342_{AN} of Local Government Act, 1919.

15. Notwithstanding the repeal of Part XIIA, any agreement entered into in accordance with section 342_{AN} of the Local Government Act, 1919, continues in force as if that Part had not been repealed, but any such agreement may be amended, varied or cancelled.

Certain full-time commissioners entitled to re-appointment in former employment.

16. (1) In this clause—

“officer or employee of a prescribed authority” does not include a commissioner or a member of any prescribed body;

“prescribed body” means a statutory body (other than the Commission) declared under section 4 (2) of the New South Wales Planning and Environment Commission Act, 1974, to be a statutory body for the purposes of that Act;

“retiring age” means—

- (a) in relation to a person who was, immediately before his appointment as a commissioner, an officer of the Public Service—the age of 60 years; and
- (b) in relation to a person who was, immediately before his appointment as a commissioner, an officer or employee of a prescribed authority—the age at which officers or employees, as the case may be (being officers or employees of the class to which that person belonged immediately before his appointment as a commissioner), of that prescribed authority are entitled to retire.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 3—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(2) A person holding office at the appointed day under section 6 (2) (a) of the New South Wales Planning and Environment Commission Act, 1974, not being a person who has attained the retiring age, is, unless appointed as the Director, entitled to be appointed, where, immediately before his appointment as a commissioner, he was—

- (a) an officer of the Public Service—to some position in the Public Service; or
- (b) an officer or employee of some prescribed authority—to some office in the service of that prescribed authority,

not lower in classification and salary than that which he held immediately before his appointment as a commissioner.

17. (1) This clause does not apply to a person entitled to an appointment under clause 16.

Full-time members of Commission, other than as referred to in clause 16.

(2) A person holding office at the appointed day under section 6 (2) (a) of the New South Wales Planning and Environmental Commission Act, 1974, is, unless appointed as the Director, entitled—

- (a) to be appointed by the Governor to a position in the service of the Crown for the balance of his term of office under section 6 of that Act, at a salary (not less than that payable to him immediately before the appointed day) determined by the Governor; and
- (b) to retain all other rights and privileges conferred upon him by that Act other than the right to appointment under that section.

(3) Notwithstanding the repeal by this Act of the New South Wales Planning and Environment Commission Act, 1974, the provisions of section 10 (1) of that Act (paragraphs (d), (i), (j) and (k) excepted), apply to a person referred to in subclause (2) of this clause as if the repeal had not been effected, and so apply as if a reference therein to a full-time commissioner were a reference to that person.

(4) The provisions of the Public Service Act, 1979, do not apply to or in respect of the appointment of a person under this clause and such a person is not, in his capacity as such an appointee, subject to the provisions of that Act.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

Officers and employees of Commission. 18. (1) The persons who, immediately before the appointed day, were officers and temporary employees of the Commission shall, at that date, become officers and temporary employees of the Department.

(2) Notwithstanding the repeal by this Act of the New South Wales Planning and Environment Commission Act, 1974, the provisions of section 16 of that Act continue to apply in relation to the persons referred to in subclause (1) as if the repeal had not been effected.

Transfer of property, rights, obligations, etc.

19. (1) On and from the appointed day—
- (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to the Commission shall vest in and belong to the corporation;
 - (b) all money and liquidated and unliquidated claims that, immediately before that day, were payable to or recoverable by the Commission shall be money and liquidated and unliquidated claims payable to or recoverable by the corporation;
 - (c) all proceedings commenced before that day by the Commission and pending immediately before that day shall be deemed to be proceedings pending on that day by the corporation and all proceedings so commenced by any person against the Commission and pending immediately before that day shall be deemed to be proceedings pending on that day by that person against the corporation;
 - (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the Commission and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the corporation;
 - (e) the corporation may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this clause and for the prosecution of actions and proceedings so referred to as the Commission might have done but for the enactment of this Act;

*Miscellaneous Acts (Planning) Repeal and Amendment.*SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (f) the corporation may enforce and realise any security or charge existing immediately before that day in favour of the Commission and may exercise any powers thereby conferred on the Commission as if the security or charge were a security or charge in favour of the corporation;
- (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, the Commission shall be debts due by, money payable by and claims recoverable against, the corporation; and
- (h) all liquidated and unliquidated claims for which the Commission would, but for the enactment of this Act, have been liable shall be liquidated and unliquidated claims for which the corporation shall be liable.

(2) No attornment to the corporation by a lessee from the Commission shall be required.

20. (1) On and from the appointed day, a reference in any other Act or in any regulation, by-law or other statutory instrument or in any other document, whether of the same or of a different kind, to the Authority or the Commission or the Chairman or a member thereof shall, subject to the regulations, be read and construed as a reference to the corporation, Director or Department, whichever is appropriate.

(2) Subclause (1) does not apply to references in the Environmental Planning and Assessment Act, 1979, the Chipping Norton Lake Authority Act, 1977, or any other prescribed enactments, instruments or documents.

21. (1) All fixed assets and fixed liabilities comprised in the Cumberland Development Fund established under the State Planning Authority Act, 1963, and transferred to the corporation in pursuance of this Schedule shall—

- (a) except as provided in paragraph (b)—form part of the Development Fund for the Sydney Region; or
- (b) where those assets and liabilities relate to the City of Greater Wollongong—form part of the Development Fund for the Illawarra Region to the extent determined by the Minister.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(2) All fixed assets and fixed liabilities comprised in the Northumberland Development Fund established under the State Planning Authority Act, 1963, and transferred to the corporation in pursuance of this Schedule shall form part of the Development Fund for the Hunter Region.

Loans. 22. (1) The due repayment of any money borrowed after 26th May, 1972, by the Authority or the Commission and of the interest thereon is hereby guaranteed by the Government.

(2) Any liability arising from such a guarantee shall be payable out of money provided by Parliament.

(3) A reference, in Part VII of or Schedule 6 to the Environmental Planning and Assessment Act, 1979, to a loan or renewal loan raised by the corporation includes a reference to a loan or renewal loan raised by the Authority or the Commission.

Development areas. 23. (1) The following areas shall be deemed to have been constituted under section 132 of the Environmental Planning and Assessment Act, 1979, as a development area, to be known as the Sydney Region Development Area, namely:—

Cities of Sydney, Blacktown, Fairfield, Liverpool, Parramatta, Penrith and Campbelltown.

Municipalities of Ashfield, Auburn, Bankstown, Botany, Burwood, Camden, Canterbury, Concord, Drummoyne, Holroyd, Hunter's Hill, Hurstville, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, Manly, Marrickville, Mosman, North Sydney, Randwick, Rockdale, Ryde, South Sydney, Strathfield, Waverley, Willoughby, Windsor and Woollahra.

Shires of Baulkham Hills, Gosford, Hornsby, Sutherland, Warringah and Wyong.

(2) The following areas shall be deemed to have been constituted under section 132 of the Environmental Planning and Assessment Act, 1979, as a development area, to be known as the Hunter Region Development Area, namely:—

Cities of Newcastle, Greater Cessnock and Maitland.

Municipality of Lake Macquarie.

*Miscellaneous Acts (Planning) Repeal and Amendment.*SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

Shire of Port Stephens.

(3) The following areas shall be deemed to have been constituted under section 132 of the Environmental Planning and Assessment Act, 1979, as a development area, to be known as the Illawarra Region Development Area, namely :—

Cities of Wollongong and Shoalhaven.

Municipalities of Bowral, Kiama and Shellharbour.

Shires of Mittagong and Wingecarribee.

(4) A development area referred to in this clause may be altered or abolished under section 133 of the Environmental Planning and Assessment Act, 1979.

(5) Section 135 of the Environmental Planning and Assessment Act, 1979, does not apply to a development area as deemed to have been constituted under this clause.

24. The amendments made by section 22 of and the Schedule to the New South Wales Planning and Environment Commission Act, 1974, except the amendment of section 342B of the Local Government Act, 1919, continue to have force and effect as if the New South Wales Planning and Environment Commission Act, 1974, had not been repealed by this Act.

25. Any act, matter or thing done or omitted by the Commission under or for the purposes of section 519c (7) or Division 3A of Part XXIV of the Local Government Act, 1919, shall be deemed to have been done or omitted by the Director under or for the purposes of that subsection or Division as in force after the appointed day.

26. A person may be appointed before the appointed day as Director, but his term of office as such shall not commence before the appointed day.

27. The sums authorised by the Appropriation Act, 1979, to be appropriated out of the Consolidated Revenue Fund and to be issued and applied for or towards expenditure under the heading "Minister for Planning and Environment" in connection with the Commission shall be deemed, to the extent that, at the appointed day, they have not been so issued or applied,

Amendments made by repealed Act.

Activity under s. 519c (7) or Div. 3A of Pt. XXIV of Local Government Act, 1919.

Appointment of Director before appointed day.

Unexpended funds appropriated in connection with the Commission.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 3—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

to be sums authorised by that Act to be appropriated out of that Fund and to be issued and applied for or towards expenditure in connection with the corporation, Director and the Department.

Proceedings
pending in
former
tribunals.

28. (1) Any proceedings (other than proceedings referred to in subclause (2))—

- (a) pending in a former tribunal immediately before the appointed day; or
- (b) pending in the Supreme Court immediately before that day and that would, but for this Act, be required thereafter to be remitted to the Land and Valuation Court, otherwise than on an appeal from that Court to the Supreme Court,

shall be deemed to be proceedings pending in the new Court, and shall be continued in and disposed of by the new Court accordingly.

(2) Any proceedings pending in the Supreme Court or the Land and Valuation Court under section 10 of the Growth Centres (Land Acquisition) Act, 1974, immediately before the appointed day shall be deemed to be proceedings pending in the new Court, and shall be continued in and disposed of by the new Court accordingly, as if that section had not been amended by this Act, but as if—

- (a) references in that section to the Supreme Court and the Land and Valuation Court were references to the new Court; and
- (b) subsection (5) of that section were amended by omitting the words "Upon remission to the Land and Valuation Court of proceedings instituted under subsection (2) in respect of a resumption, that Court" and by inserting instead the words "In proceedings instituted under subsection (2) in respect of a resumption, the Land and Environment Court".

(3) The person who was the registrar or other officer having the custody of any records of a former tribunal or the Supreme Court immediately before the appointed day shall, as soon as practicable after that day, forward to the new Court all documents held by him and relating to any proceedings referred to in subclause (1) or (2).

Other
pending
proceedings.

29. Any proceedings pending in the Supreme Court or the District Court or before any other body or person immediately before the appointed day (being proceedings which, on or after that day, may only be commenced

*Miscellaneous Acts (Planning) Repeal and Amendment.*SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

in the new Court, but excluding proceedings referred to in clause 28) shall be continued and disposed of as if this Act, the Environmental Planning and Assessment Act, 1979, and the Land and Environment Court Act, 1979, had not been enacted.

30. (1) On and from the appointed day, a reference in any other Act, Construction in any regulation, by-law or other statutory instrument or in any other document, whether of the same or of a different kind, to—
tion of references to former tribunals.

(a) a former tribunal; or

(b) a valuation court constituted under the Valuation of Land Act, 1916,

shall be read and construed as a reference to the new Court.

(2) On and from the appointed day, a reference in the Local Government Act, 1919, or in any instrument under that Act, to the "Tribunal" shall, unless a contrary intention appears, be read and construed as a reference to the new Court.

(3) Subclause (1) does not apply to references in section 5 of the Land Development Contribution Management Act, 1970, or in any other prescribed enactments, instruments or documents.

31. On and from the appointed day, a reference in any other Act, or in any regulation, by-law or other statutory instrument, or in any other document, whether of the same or of a different kind, to the "Private Irrigation Districts and Water (Amendment) Act, 1973" shall be read and construed as a reference to the "Private Irrigation Districts Act, 1973".
Construction of references to Private Irrigation Districts and Water (Amendment) Act, 1973.

32. Where by or under any Act a right of appeal to the new Court in accordance with the provisions of section 341 of the Local Government Act, 1919, is expressly conferred upon any person in respect of any matter arising out of or with respect to the carrying into effect or enforcing of an environmental planning instrument, a reference in any such Act to that section shall be read and construed as a reference to section 97 of the Environmental Planning and Assessment Act, 1979.
Appeals expressed to be under sec. 341 of Local Government Act, 1919. cf. 1958, No. 21, s. 7 (8).

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 3—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

Land agents. 33. A person whose registration in the Land and Valuation Court pursuant to the Land Agents Act, 1927, as a land agent was in force immediately before the appointed day shall be deemed to have been registered as such in the new Court on that day.

Schedule 2 to Public Service Act, 1979. 34. The amendments by this Act of Schedule 2 to the Public Service Act, 1979, do not affect any power under that Act to amend that Schedule.

Delegations. 35. A delegation in force under section 69 of the State Planning Authority Act, 1963, or section 71 of the Land Development Contribution Management Act, 1970, immediately before the appointed day shall be deemed to be a delegation made under section 23 of the Environmental Planning and Assessment Act, 1979.

Assessments under State Planning Authority Act, 1963. 36. An assessment made under section 47 of the State Planning Authority Act, 1963, shall be deemed to be an assessment made under section 143 of the Environmental Planning and Assessment Act, 1979.

Requirements for easements. 37. For the purposes of section 327 of the Local Government Act, 1919, as amended by this Act, a requirement made under section 342BG of the Local Government Act, 1919, shall be deemed to be a requirement made by the Land and Environment Court under section 40 of the Land and Environment Court Act, 1979.

Regulations. 38. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act, the Environmental Planning and Assessment Act, 1979, or the Land and Environment Court Act, 1979.

(2) A provision made under subclause (1) may take effect as from the appointed day or a later day.

Miscellaneous Acts (Planning) Repeal and Amendment.

SCHEDULE 3—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or a public authority), the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State or a public authority) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision made under subclause (1) shall, if the regulations expressly so provide, have effect notwithstanding the foregoing clauses of this Schedule (clauses 16, 17, 18, 24 and 27 excepted).
