



New South Wales

# Environmental Planning and Assessment Amendment Bill 2006

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is:

- (a) to amend the *Environmental Planning and Assessment Act 1979*:
  - (i) to provide for contributions for the provision of infrastructure in relation to development within special contributions areas, and
  - (ii) to enable the Minister for Planning (*the Minister*) to give directions to a council in respect of contributions plans, development control plans and other matters, and
  - (iii) to provide for the establishment of planning assessment panels and the exercise of council's planning functions by those panels and by planning administrators, and
- (b) to amend the *Growth Centres (Development Corporations) Act 1974* to permit the Minister to appoint a chief executive of a development corporation and to require a corporation to submit an annual statement of business intent, and
- (c) to amend the *Redfern–Waterloo Authority Act 2004* to permit Crown land to be transferred to the Redfern–Waterloo Authority and to permit the Minister to delegate certain functions.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the Acts set out in Schedules 1–4.

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

**Schedule 1 [15]** inserts proposed Subdivisions 4 and 5 into Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979* (the **Principal Act**). Proposed Subdivision 4 provides for the levying of special contributions for the provision of infrastructure as a condition of development consent in relation to development on land within a special contributions area (being land within a growth centre or other land for the time being described in proposed Schedule 5A to the Principal Act). The level and nature of any contribution is to be determined by the Minister (any such determination is not subject to appeal to the Land and Environment Court). The Minister may direct a consent authority for development on land within a special contributions area to impose a condition on a grant of development consent requiring the developer to contribute, in accordance with the Minister's determination, money or land (or both) for the purpose of providing infrastructure in relation to the development (if the Minister is the consent authority he or she may impose such a condition without the need for a direction). Any such condition is in addition to any condition the consent authority may impose under section 94 or 94A of the Principal Act (which provide for contributions in relation to local infrastructure). Money received by a consent authority is to be paid into the Special Contributions Areas Infrastructure Fund (**the Fund**) established under proposed Subdivision 5. Money from the Fund is to be paid to public authorities for the provision of infrastructure. Proposed Schedule 5A to the Principal Act (which sets out the special contributions areas) may be amended by the Minister by order published in the Gazette. **Schedule 1 [1]–[5], [7], [10], [11] and [17]** make consequential amendments.

**Schedule 1 [6]** provides that a planning authority other than the Minister is not to enter a planning agreement that excludes a special contribution under proposed Subdivision 4 without the approval of the Minister or a development corporation designated by the Minister to give such approvals.

**Schedule 1 [8]** prevents a consent authority from imposing a condition under section 94A of the Principal Act in relation to development on land within a special contributions area without the approval of the Minister or a development corporation designated by the Minister to give such approvals.

**Schedule 1 [12]** provides that a contributions plan does not authorise the imposition of conditions under section 94 of the Principal Act if the infrastructure to be provided from the contribution under that section is infrastructure that is to be provided from a special contribution under proposed Subdivision 4.

**Schedule 1 [13]** requires a council to provide the Minister with a copy of each contributions plan approved by the council.

**Schedule 1 [14]** permits the Minister to direct a council to approve, amend or repeal a contributions plan in the time and manner specified in the direction. If the council fails to follow the direction, the Minister may make, amend or repeal the plan. The Minister may also make, amend or repeal the plan if the council consents. The Minister is not subject to the regulations in approving, amending or repealing a plan and a person cannot appeal any such approval, amendment or repeal.

**Schedule 1 [16]** prevents a condition under section 94F of the Principal Act (which relates to contributions for affordable housing) from being imposed in relation to development on land within a special contributions area.

**Schedule 1 [9]** omits a cross reference to a repealed provision.

**Schedule 1 [18]** enables regulations to be made under the Principal Act that contain savings and transitional provisions.

**Schedule 1 [19]** inserts a number of savings and transitional provisions into the Principal Act.

## **Schedule 2      Miscellaneous amendments of Environmental Planning and Assessment Act 1979 No 203**

**Schedule 2 [1]** amends the *Environmental Planning and Assessment Act 1979* (the *Principal Act*) to permit the Minister, subject to the regulations (if any), to direct a council to make, amend or revoke a development control plan in the time and manner specified in the direction. If a council fails to comply with a direction, the Minister may make, amend or revoke the development control plan.

**Schedule 2 [2]** permits the Minister to direct a council to provide him or her with reports on the council's performance with respect to planning and development matters.

**Schedule 2 [3]** inserts proposed Division 1AA into Part 6 of the Principal Act (to replace section 118). The Division provides that if the Minister is of the opinion that the council has failed to comply with its obligations under the planning legislation or its performance in dealing with planning and development matters is unsatisfactory, if the council agrees or if a report by the Independent Commission Against Corruption recommends such an appointment, the Minister may appoint a planning administrator or a planning assessment panel (or both) to exercise functions of a council. Before making an appointment the Minister must consult with the Minister

for Local Government. A planning administrator may (as at present) exercise any of the council's functions under the Principal Act as are specified in the order of appointment. A panel may exercise any of the council's consent authority functions under Part 4, or its functions in relation to the making of environmental planning instruments under Part 3, of the Principal Act as are specified in the order of appointment. A panel is to consist of persons appointed by the Minister and is subject to the direction and control of the Minister except in relation to the determination of a development application. A council is to pay the remuneration and costs and expenses of a planning administrator or panel. A member of a council or a council staff member commits an offence (maximum penalty \$1,100) if he or she obstructs a planning administrator, panel or certain associated persons in the exercise of the person's functions. **Schedule 2 [4]** makes provision with respect to the membership and procedure of a panel (including provision for the conduct of particular business in public if the Minister so orders).

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

**Schedule 3 [4]** amends section 6 of the *Growth Centres (Development Corporations) Act 1974* (the **Principal Act**) to permit the Minister (or the Minister for Commerce in respect of the Festival Development Corporation) to appoint a person as chief executive of a development corporation constituted under Part 2 of the Principal Act. If no such person is appointed, the Director-General of the Department of Planning is to be the chief executive. Currently the Director-General is the chief executive of each development corporation. **Schedule 3 [1] and [3]** make consequential amendments. **Schedule 3 [7]** inserts a savings and transitional provision that requires certain references to the Director-General to be construed as references to the chief executive.

**Schedule 3 [5]** inserts proposed section 23 into the Principal Act which requires a development corporation to prepare an annual statement of business intent and submit the statement to the Minister and the Treasurer.

**Schedule 3 [6]** omits a provision that requires a member of a development corporation to obtain the approval of the Minister before engaging in any paid employment outside the duties of the member's office.

**Schedule 3 [8]** enables regulations to be made under the Principal Act that contain savings and transitional provisions.

**Schedule 3 [2]** updates a reference to a Department.

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

**Schedule 4 [1] and [2]** amend section 19 of the *Redfern–Waterloo Authority Act 2004* (the *Principal Act*) to permit the Minister administering the *Crown Lands Act 1989* to transfer to the Redfern–Waterloo Authority (the *Authority*), subject to the terms and conditions agreed to between that Minister and the Minister for Redfern Waterloo, Crown land within the operational area of the Authority or the management of any such Crown land. **Schedule 4 [3]** makes a consequential amendment.

**Schedule 4 [2]** also amends section 19 of the Principal Act to replace the definition of *public authority* to make it clear that a public authority includes a government department, a statutory body representing the Crown and a member of staff or other person who exercises functions on behalf of a public authority.

**Schedule 4 [4]** inserts proposed section 27A into the Principal Act, which allows the Minister for Planning to delegate to the Minister for Redfern Waterloo the Minister for Planning's functions as a consent authority in relation to development on land in the operational area of the Authority.

**Schedule 4 [5]** permits the Minister for Redfern Waterloo to delegate to a member of staff of the Authority functions as the approval body under Part 3A of the *Environmental Planning and Assessment Act 1979* that have been delegated to the Minister by the Minister for Planning.

**Schedule 4 [6]** extends section 29 of the Principal Act (which excludes the provisions of the *Heritage Act 1977*) to apply to all development on land in the operational area of the Authority that is development requiring consent under Part 4 of the *Environmental Planning and Assessment Act 1979* and for which a Minister is the consent authority.

**Schedule 4 [7]** permits the Minister for Redfern Waterloo to delegate his or her functions under section 29 of the Principal Act to the Authority or a member of staff of the Authority.

**Schedule 4 [8]** extends section 30 of the Principal Act (which provides for development contributions for affordable housing) to apply to all development on land in the operational area of the Authority that is development requiring consent under Part 4 of the *Environmental Planning and Assessment Act 1979* (and for which a Minister is the consent authority). **Schedule 4 [10] and [11]** make consequential amendments.

**Schedule 4 [9]** precludes section 30 (development contributions for affordable housing) of the Principal Act from applying to land in a special contributions area within the meaning of Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979*. This avoids duplication as affordable housing is one of the matters for which a special contribution for infrastructure may be levied under proposed Subdivision 4 of that Division.

**Schedule 4 [12]** extends section 31 of the Principal Act (which provides for development contributions other than for affordable housing) to apply to all development on land in the operational area of the Authority that is development requiring consent under Part 4 of the *Environmental Planning and Assessment Act 1979* (and for which the Minister is the consent authority). **Schedule 4 [13], [14] and [15]** make consequential amendments.

**Schedule 4 [16]** makes it clear that a condition requiring a special contribution for infrastructure may still be imposed under Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979* in addition to a condition under section 31 (development contributions (other than affordable housing)) of the Principal Act.

**Schedule 4 [17]** provides that a contributions plan must not authorise a condition to be imposed under section 31 of the Principal Act or section 94 of the *Environmental Planning and Assessment Act 1979* if the infrastructure to which the condition relates is or will be provided out of a special contribution for infrastructure under Division 6 of Part 4 of that Act.

**Schedule 4 [18]** enables regulations to be made under the Principal Act that contain savings and transitional provisions.

**Schedule 4 [19]** inserts a number of savings and transitional provisions into the Principal Act.



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# Environmental Planning and Assessment Amendment Bill 2006

No. , 2006

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## A Bill for

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

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Environmental Planning and Assessment Amendment Act 2006</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6
<b>3 Amendment of Acts</b>	7
The Acts specified in Schedules 1–4 are amended as set out in those Schedules.	8 9

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<b>Schedule 1</b>	<b>Amendment of Environmental Planning and Assessment Act 1979 No 203 with respect to contributions</b>	1
		2
		3
	(Section 3)	4
<b>[1] Section 75R Application of other provisions of Act</b>		5
	Insert “, 94EF” after “94, 94A” in section 75R (4).	6
<b>[2] Section 80A Imposition of conditions</b>		7
	Insert “, 94EF” after “94, 94A” in section 80A (1) (h).	8
<b>[3] Section 93C Definitions</b>		9
	Insert in alphabetical order:	10
	<i>development corporation</i> means a development corporation constituted under Part 2 of the <i>Growth Centres (Development Corporations) Act 1974</i> .	11
	<i>growth centre</i> has the same meaning as it has in the <i>Growth Centres (Development Corporations) Act 1974</i> .	12
	<i>special contributions area</i> means land for the time being described in Schedule 5A.	13
		14
		15
		16
		17
<b>[4] Section 93E Provisions relating to money etc contributed under this Division (other than Subdivision 4)</b>		18
	Insert “(other than Subdivision 4)” after “this Division” wherever occurring in section 93E (1), (2) and (3).	19
		20
		21
<b>[5] Section 93F Planning agreements</b>		22
	Omit “or 94A” from section 93F (3) (d). Insert instead “, 94A or 94EF”.	23
<b>[6] Section 93F (5A)</b>		24
	Insert after section 93F (5):	25
	(5A) A planning authority, other than the Minister, is not to enter into a planning agreement excluding the application of section 94EF without the approval of:	26
		27
		28
	(a) the Minister, or	29
	(b) a development corporation designated by the Minister to give approvals under this subsection.	30
		31

<b>[7] Part 4, Division 6, Subdivision 3, heading</b>	1
Omit the heading. Insert instead:	2
<b>Subdivision 3      Local infrastructure contributions</b>	3
<b>[8] Section 94A Fixed development consent levies</b>	4
Insert after section 94A (2):	5
(2A) A consent authority cannot impose a condition under this section in relation to development on land within a special contributions area without the approval of:	6 7 8
(a) the Minister, or	9
(b) a development corporation designated by the Minister to give approvals under this subsection.	10 11
<b>[9] Section 94D Section 94 or 94A conditions imposed by Minister or Director-General in growth centres etc</b>	12 13
Omit section 94D (5).	14
<b>[10] Part 4, Division 6</b>	15
Omit the heading to Subdivision 4.	16
<b>[11] Section 94EA Contributions plans—making</b>	17
Insert “(other than Subdivision 4)” after “Division” in section 94EA (1).	18
<b>[12] Section 94EA (2A)</b>	19
Insert after section 94EA (2):	20
(2A) A contributions plan does not authorise the imposition of a condition under section 94 on a grant of development consent if the public amenities or public services to which that condition relates are, in whole or in part, infrastructure provided, or to be provided, in relation to the development out of contributions collected under Subdivision 4.	21 22 23 24 25 26
<b>[13] Section 94EA (4)</b>	27
Insert after section 94EA (3):	28
(4) A council is, as soon as practicable after approving a contributions plan, to provide the Minister with a copy of the plan.	29 30 31

<b>[14] Section 94EAA</b>	1
Insert after section 94EA:	2
<b>94EAA Contributions plans—making, amendment or repeal by Minister</b>	3
(1) The Minister may direct a council, in writing, to approve, amend or repeal a contributions plan in the time and manner specified in the direction.	4 5 6
(2) The Minister may make, amend or repeal a contributions plan if:	7
(a) a council fails to approve, amend or repeal the plan in accordance with a direction of the Minister under this section, or	8 9 10
(b) a council consents in writing to the Minister making, amending or repealing the plan.	11 12
The plan, the amended plan or the repeal of the plan has effect as if it had been approved, amended or repealed by the council.	13 14
(3) The Minister in making, amending or repealing a contributions plan under this section is not subject to the regulations.	15 16
(4) A person cannot appeal to the Court under this Act in respect of:	17
(a) the making, amending or repealing of a contributions plan by or at the direction of the Minister under this section, or	18 19
(b) the reasonableness in the particular circumstances of a condition under section 94 that is determined in accordance with any such contributions plan,	20 21 22
despite section 94B (3) or any other provision of this Act.	23
<b>[15] Part 4, Division 6, Subdivisions 4 and 5</b>	24
Insert after section 94EC:	25
<b>Subdivision 4 Special infrastructure contributions</b>	26
<b>94ED Provision of infrastructure</b>	27
(1) In this Subdivision, a reference to the <i>provision of infrastructure</i> includes a reference to:	28 29
(a) the provision, extension and augmentation of (or the recoument of the cost of providing, extending or augmenting) public amenities or public services, affordable housing and transport or other infrastructure relating to land, and	30 31 32 33 34

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with respect to contributions

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(b)	the funding of recurrent expenditure relating to the provision, extension and augmentation of public amenities or public services, affordable housing and transport or other infrastructure, and	1 2 3 4
(c)	the conservation or enhancement of the natural environment,	5 6
	but does not include a reference to water supply or sewerage services.	7 8
(2)	Subject to section 94EE (2) (c), infrastructure may be regarded as being provided in relation to development whether or not the infrastructure is provided on land within a special contributions area.	9 10 11 12
<b>94EE</b>	<b>Minister to determine development contributions</b>	13
(1)	The Minister is, subject to the regulations (if any), to determine the level and nature of development contributions to be imposed as conditions under this Subdivision for the provision of infrastructure in relation to a development or a class of development.	14 15 16 17 18
(2)	In determining the level and nature of development contributions:	19 20
(a)	the Minister is, as far as reasonably practicable, to make the contribution reasonable having regard to the cost of the provision of infrastructure in relation to the development or class of development, and	21 22 23 24
(b)	if the cost of that infrastructure exceeds \$30 million—the Minister is to consult the Treasurer, and	25 26
(c)	the Minister is not to take into account infrastructure provided on land other than that within the relevant special contributions area, unless, in the opinion of the Minister, the provision of the infrastructure on such land arises as a result of the development or as a result of a class of development of which the development forms a part.	27 28 29 30 31 32
(3)	Despite subsection (2), the Minister may, if he or she sees fit, determine the level and nature of development contributions in the form of a levy of a percentage of the proposed cost of carrying out development or any class of development.	33 34 35 36
(4)	A person cannot appeal to the Court under this Act in respect of a determination of the Minister under this section.	37 38

<b>94EF</b>	<b>Special infrastructure contributions</b>	1
(1)	The Minister may direct a consent authority, in relation to development or class of development on land within a special contributions area, to impose a condition (determined in accordance with section 94EE) on a grant of development consent in relation to that land.	2 3 4 5 6
(2)	If the Minister is the consent authority, the Minister may impose a condition referred to in subsection (1) without giving a direction under that subsection.	7 8 9
(3)	A consent authority to which a direction is given under this section must comply with the direction in accordance with its terms. If the consent authority fails to do so, the Minister may impose the condition, and it has effect as if it had been imposed by the consent authority.	10 11 12 13 14
(4)	A condition imposed under this section is in addition to any condition that the consent authority may impose under section 94 or 94A in relation to the development.	15 16 17
(5)	The consent authority may, subject to the consent of the Minister, accept:	18 19
(a)	the dedication of land in part or full satisfaction of a condition imposed in accordance with this section, or	20 21
(b)	the provision of a material public benefit (other than the dedication of land or the payment of a monetary contribution) in part or full satisfaction of a condition imposed in accordance with this section.	22 23 24 25
(6)	A person cannot appeal to the Court under this Act in respect of a direction of the Minister, or a condition imposed by a consent authority or the Minister, under this section.	26 27 28
(7)	A condition imposed by a consent authority or the Minister under this section cannot be modified without the approval of the Minister.	29 30 31
<b>94EG</b>	<b>Minister may make, amend or repeal special contributions areas</b>	32
(1)	The Minister may, by order published in the Gazette, amend Schedule 5A for the purpose of:	33 34
(a)	creating a special contributions area, or	35
(b)	repealing a special contributions area, or	36
(c)	changing a special contributions area.	37
(2)	Any such order may contain savings and transitional provisions.	38

(3)	Any such order takes effect on the day that it is published in the Gazette or such later date as may be specified in the order.	1 2
<b>94EH</b>	<b>Land contributed under this Subdivision</b>	3
	The Minister may direct a consent authority to sell all or part of any land it receives under this Subdivision or to transfer any such land to a public authority that is to provide, or has provided, infrastructure in relation to:	4 5 6 7
	(a) the development to which the land relates, or	8
	(b) the class of development to which that development belongs.	9 10
<b>Subdivision 5</b>	<b>Establishment of Special Contributions Areas Infrastructure Fund</b>	11 12
<b>94EI</b>	<b>Definition</b>	13
	In this Subdivision:	14
	<i>the Fund</i> means the Special Contributions Areas Infrastructure Fund established under section 94EJ.	15 16
<b>94EJ</b>	<b>Establishment of Fund</b>	17
(1)	There is to be established in the Special Deposits Account a fund called the Special Contributions Areas Infrastructure Fund.	18 19
(2)	The Fund is to be administered by the Director-General. The Director-General is to consult the Secretary of the Treasury in relation to the administration of the Fund.	20 21 22
<b>94EK</b>	<b>Payments into Fund</b>	23
	The following is to be paid into the Fund:	24
(a)	monetary contributions received by a consent authority under Subdivision 4,	25 26
(b)	the proceeds of the sale of any land received by a consent authority under Subdivision 4,	27 28
(c)	any money appropriated by Parliament for the purposes of the Fund,	29 30
(d)	the proceeds of the investment of money in the Fund,	31
(e)	any other money required to be paid into the Fund by or under this or any other Act or the regulations under this Act.	32 33 34

<b>94EL</b>	<b>Payments out of Fund</b>	1
(1)	The following is to be paid from the Fund:	2
(a)	payments to public authorities for the provision of infrastructure in relation to development,	3 4
(b)	any money required to meet administrative expenses in relation to the Fund,	5 6
(c)	all other money directed or authorised to be paid from the Fund by this Act or by the regulations under this Act.	7 8
(2)	The assets of the Fund can only be applied for the purposes referred to in subsection (1).	9 10
<b>94EM</b>	<b>Investment of money in Fund</b>	11
	The money in the Fund may be invested:	12
(a)	in such manner as may be authorised by the <i>Public Authorities (Financial Arrangements) Act 1987</i> , or	13 14
(b)	if that Act does not confer power on the Department to invest the money, in any other manner approved by the Treasurer.	15 16 17
<b>[16]</b>	<b>Section 94F Conditions requiring land or contributions for affordable housing</b>	18 19
	Insert after section 94F (5):	20
(6)	A condition is not to be imposed under this section in relation to development that is within a special contributions area (within the meaning of Division 6).	21 22 23
<b>[17]</b>	<b>Schedule 5A</b>	24
	Insert after Schedule 5:	25
	<b>Schedule 5A Special contributions areas</b>	26
	(Sections 93C and 94EG (1))	27
1	land within any growth centre	28
<b>[18]</b>	<b>Schedule 6 Savings, transitional and other provisions</b>	29
	Insert at the end of clause 1 (1):	30
	<i>Environmental Planning and Assessment Amendment Act 2006</i>	31

<b>[19] Schedule 6</b>	1
Insert at the end of the Schedule with appropriate Part and clause numbers:	2
<b>Part      Provisions consequent on enactment of             Environmental Planning and Assessment             Amendment Act 2006</b>	3 4 5
<b>Definition</b>	6
In this Part:	7
<i>amending Act</i> means the <i>Environmental Planning and             Assessment Amendment Act 2006</i> .	8 9
<b>Contributions plans</b>	10
Section 94EA (2A), as inserted by the amending Act, does not affect a condition imposed under section 94 before the commencement of section 94EA (2A) and any such condition continues to have effect as if that subsection had not commenced.	11 12 13 14
<b>Contributions for affordable housing</b>	15
Section 94F (6), as inserted by the amending Act, does not affect a condition imposed under section 94F before the commencement of section 94F (6) and any such condition continues to have effect as if that subsection had not commenced.	16 17 18 19

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<b>Schedule 2</b>	<b>Miscellaneous amendments to Environmental Planning and Assessment Act 1979 No 203</b>	1 2 3
	(Section 3)	4
<b>[1] Section 74F</b>		5
	Insert after section 74E:	6
<b>74F Minister may direct councils with respect to development control plans</b>		7 8
(1)	The Minister may, subject to the regulations (if any), direct a council to make, amend or revoke a development control plan in the time and manner specified in the direction.	9 10 11
(2)	A council to which a direction is given under this section must comply with the direction in accordance with its terms.	12 13
(3)	If a council fails to comply with a direction of the Minister under this section, the Minister may make, amend or revoke the development control plan as if the Minister were the council.	14 15 16
(4)	A development control plan made, amended or revoked by the Minister under this section has effect, or ceases to have effect as the case may be, as if it were made, amended or revoked by the council.	17 18 19 20
(5)	The Minister in making, amending or revoking a development control plan under this section is not subject to the regulations.	21 22
(6)	Section 74C (2) does not apply to development control plan made by or at the direction of the Minister under this section.	23 24
<b>[2] Section 117 Directions by the Minister</b>		25
	Insert at the end of section 117 (2) (b):	26
	, and	27
(c)	to provide the Minister, in the manner and at the times specified in the direction, with reports, containing such information as the Minister may direct, on the council's performance in relation to planning and development matters.	28 29 30 31 32

<b>[3] Part 6, Division 1AA</b>	1
Omit section 118. Insert instead:	2
<b>Division 1AA Planning administrators and panels</b>	3
<b>117C Definitions</b>	4
In this Division:	5
<i>panel</i> means a planning assessment panel listed in Schedule 5B.	6
<i>planning administrator</i> means a person appointed as a planning administrator under section 118.	7
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<b>118 Appointment of planning administrator or panel</b>	9
(1) The Minister may appoint a planning administrator or a panel (or both) to exercise functions of a council if:	10
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(a) the Minister is of the opinion that the council has failed to comply with its obligations under the planning legislation,	12
or	13
	14
(b) the Minister is of the opinion that the performance of a council in dealing with planning and development matters (or any particular class of such matters) is unsatisfactory because of the manner in which the council has dealt with those matters, the time taken or in any other respect, or	15
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(c) the council agrees to the appointment, or	20
(d) a report referred to in section 74C of the <i>Independent Commission Against Corruption Act 1988</i> recommends that consideration be given to the appointment because of serious corrupt conduct by any of the councillors in connection with the exercise or purported exercise of functions conferred or imposed on the council by or under this Act.	21
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(2) A planning administrator may be appointed to exercise all or any particular function or class of functions of the council under this Act.	28
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(3) A panel may be appointed to exercise only all or any particular function or class of functions of the council:	31
	32
(a) as a consent authority under Part 4, or	33
(b) in relation to making of environmental planning instruments under Part 3.	34
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(4) A planning administrator or panel is to be appointed by order of the Minister published in the Gazette.	36
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(5)	Before appointing a planning administrator or panel, the Minister is to consult with the Minister for Local Government.	1 2
(6)	The Minister may make an appointment under subsection (1) (d) without conducting an inquiry but, in that case, the Minister is to inquire into the matter as soon as practicable with a view to confirming or revoking the appointment.	3 4 5 6
(7)	In this section:	7
	<i>failure to comply with obligations under the planning legislation</i> includes:	8 9
(a)	a failure to carry into effect or enforce the provisions of this Act, an environmental planning instrument or a direction under section 55, 94E or 117, or	10 11 12
(b)	a failure to comply with the requirements of the staged repeal program under section 33B with respect to the preparation or making of a replacement local environmental plan.	13 14 15 16
	<i>serious corrupt conduct</i> means corrupt conduct (within the meaning of the <i>Independent Commission Against Corruption Act 1988</i> ) that may constitute a serious indictable offence, being conduct in connection with the exercise or purported exercise of the functions of a councillor.	17 18 19 20 21
<b>118AA</b>	<b>Planning assessment panels</b>	22
(1)	The bodies listed in Part 1 of Schedule 5B from time to time are established by this Act as planning assessment panels.	23 24
(2)	A panel is a body corporate with the corporate name specified in Part 1 of Schedule 5B.	25 26
(3)	A panel is a statutory body representing the Crown and has the status, privileges and immunities of the Crown.	27 28
(4)	A panel is to consist of such members (being not less than 3 and not more than 5) as are appointed by the Minister.	29 30
(5)	The members of the panel are to be persons who together have, in the opinion of the Minister, relevant skills and knowledge in planning and development matters.	31 32 33
(6)	The Minister is to appoint a member of the panel as the chairperson of the panel.	34 35
(7)	Part 2 of Schedule 5B has effect with respect to the members and procedure of panels.	36 37

Environmental Planning and Assessment Amendment Bill 2006

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

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(8)	A panel is, in the exercise of its functions, subject to the control and direction of the Minister.	1 2
(9)	A panel is to provide the Minister with such information and material as the Minister may require in relation to its policies, programs and procedures.	3 4 5
(10)	Despite subsection (8), a panel is not subject to the control of the Minister in determining a development application.	6 7
(11)	The Minister may, by order published in the Gazette, amend Part 1 of Schedule 5B for the purpose of:	8 9
	(a) establishing a panel, or	10
	(b) abolishing a panel, or	11
	(c) changing the name of a panel.	12
(12)	Any such order may contain savings and transitional provisions.	13
<b>118AB</b>	<b>Function of a planning administrator or panel</b>	14
(1)	During the period of appointment, the planning administrator or panel:	15 16
	(a) is to exercise the functions of the council under this Act that are specified in the order of appointment, and	17 18
	(b) is, in the exercise of those functions, taken to be the council, and	19 20
	(c) is to exercise those functions to the exclusion of the council except to the extent that the order of appointment provides otherwise, and	21 22 23
	(d) is, in the exercise of those functions, to give priority to particular functions to the extent that the order of appointment so provides.	24 25 26
(2)	Despite subsection (1), a planning administrator or panel is not to enter into contracts in the exercise of the planning administrator's or panel's functions except:	27 28 29
	(a) with the consent of the Minister and the concurrence of the Minister for Local Government, or	30 31
	(b) in the case of contracts for the appointment of staff—with the authority conferred by a regulation made under section 118AF.	32 33 34
(3)	Subsection (1) has effect even if the appointment of the planning administrator or panel is subsequently found not to have been validly made.	35 36 37

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<b>118AC</b>	<b>Costs of planning administrator or panel</b>	1
(1)	A council, the functions of which are exercised by a planning administrator or panel, is to pay to the Director-General out of the council's consolidated fund, the remuneration and costs and expenses of the planning administrator or panel.	2 3 4 5
(2)	The Minister may do either or both of the following:	6
(a)	exempt a council from payment of all or part of the remuneration and costs and expenses of the planning administrator or panel,	7 8 9
(b)	resolve any dispute as to the amount of any such remuneration, costs or expenses.	10 11
<b>118AD</b>	<b>Council to assist planning administrator or panel</b>	12
(1)	A council must, if directed to do so by the Minister, provide any of the following with such staff, facilities and documents as are specified in the direction:	13 14 15
(a)	a planning administrator or panel appointed to exercise functions of the council,	16 17
(b)	a staff member of any such planning administrator or panel,	18 19
(c)	a member of any such panel.	20
(2)	A member of a council, or a member of staff of a council, must not obstruct any of the persons in subsection (1) (a)–(c) in the exercise of his or her functions under this Division. Maximum penalty: 10 penalty units.	21 22 23 24
(3)	Before giving a direction under subsection (1), the Minister is to consult with the Minister for Local Government.	25 26
<b>118AE</b>	<b>Annual report on activities of planning administrators and panels</b>	27
	The Director-General is, in the annual report of the Department, to report on the activities of planning administrators and panels during the period covered by the annual report, including:	28 29 30
(a)	the financial activities of planning administrators and panels, and	31 32
(b)	the exercise of council functions by planning administrators and panels.	33 34

<b>118AF Regulations</b>	1
The regulations may make provision for or with respect to the appointment and functions of a planning administrator or panel and, in particular, for or with respect to:	2 3 4
(a) the accommodation, if any, to be provided at the offices of the council for the planning administrator or panel and any other persons assisting the planning administrator or panel in the exercise of the planning administrator's or panel's functions, and	5 6 7 8 9
(b) the appointment of staff by the planning administrator or panel to assist in the exercise of the planning administrator's or panel's functions.	10 11 12
<b>[4] Schedule 5B</b>	13
Insert before Schedule 6:	14
<b>Schedule 5B Planning assessment panels</b>	15
(Section 118AA)	16
<b>Part 1 Panels</b>	17
<b>Part 2 Provisions relating to panels</b>	18
<b>Division 1 General</b>	19
<b>1 Definitions</b>	20
In this Part:	21
<i>chairperson</i> means the person appointed by the Minister as the chairperson of the panel.	22 23
<i>deputy chairperson</i> means the deputy chairperson of the panel.	24
<i>member</i> means a member of the panel.	25
<i>panel</i> means a planning assessment panel listed in Part 1.	26
<b>Division 2 Members</b>	27
<b>2 Terms of office of members</b>	28
(1) Subject to this Part and the regulations, a member holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment.	29 30 31

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(2)	The period under subclause (1) may be determined by reference to the occurrence of a specified event.	1 2
<b>3</b>	<b>Basis of office</b>	3
	The office of a member is a part-time office.	4
<b>4</b>	<b>Remuneration</b>	5
	A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.	6 7 8
<b>5</b>	<b>Deputies</b>	9
(1)	The Minister may, from time to time, appoint a person to be the deputy of a member, and may revoke any such appointment.	10 11
(2)	In the absence of a member, the member's deputy may, if available, act in the place of the member.	12 13
(3)	While acting in the place of a member, a person has all the functions of the member and is taken to be a member.	14 15
(4)	A person may be appointed as the deputy of 2 or more members, but has only one vote at any meeting of the panel.	16 17
(5)	This clause does not operate to confer on the deputy of a member who is the chairperson or deputy chairperson the member's functions as chairperson or deputy chairperson.	18 19 20
<b>6</b>	<b>Vacancy in office of member</b>	21
(1)	The office of a member becomes vacant if the member:	22
(a)	dies, or	23
(b)	completes a term of office and is not re-appointed, or	24
(c)	resigns the office by instrument in writing addressed to the Minister, or	25 26
(d)	is removed from office by the Minister under this clause, or	27 28
(e)	is absent from 3 consecutive meetings of the panel of which reasonable notice has been given to the member personally or by post, except on leave granted by the panel or unless the member is excused by the panel for having been absent from those meetings, or	29 30 31 32 33
(f)	becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds	34 35

	with his or her creditors or makes an assignment of his or her remuneration for their benefit, or	1 2
	(g) becomes a mentally incapacitated person, or	3
	(h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.	4 5 6 7 8
	(2) The Minister may remove a member from office for any or no reason and without notice.	9 10
<b>7</b>	<b>Filling of vacancy in office of member</b>	11
	If the office of a member becomes vacant, a person is, subject to this Act and the regulations, to be appointed to fill the vacancy.	12 13
<b>8</b>	<b>Chairperson and deputy chairperson</b>	14
	(1) A panel may elect a deputy chairperson from among its members.	15
	(2) The chairperson or deputy chairperson vacates office as chairperson or deputy chairperson if he or she:	16 17
	(a) is removed from that office by the Minister or the panel under this clause, or	18 19
	(b) resigns that office by instrument in writing addressed to the Minister, or	20 21
	(c) ceases to be a member of the relevant panel.	22
	(3) The Minister may at any time remove the chairperson or deputy chairperson from office as chairperson or deputy chairperson.	23 24
	(4) A panel may at any time remove the deputy chairperson of the panel from office as deputy chairperson.	25 26
<b>9</b>	<b>Disclosure of pecuniary interests</b>	27
	(1) If:	28
	(a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the panel, and	29 30 31
	(b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	32 33 34
	the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the panel.	35 36 37

- (2) A disclosure by a member at a meeting of a panel that the member:
- (a) is a member, or is in the employment, of a specified company or other body, or
  - (b) is a partner, or is in the employment, of a specified person, or
  - (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).
- (3) Particulars of any disclosure made under this clause must be recorded by the panel in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the panel.
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the relevant panel otherwise determines:
- (a) be present during any deliberation of the panel with respect to the matter, or
  - (b) take part in any decision of the panel with respect to the matter.
- (5) For the purposes of the making of a determination by a panel under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
- (a) be present during any deliberation of the panel for the purpose of making the determination, or
  - (b) take part in the making by the panel of the determination.
- (6) A contravention of this clause does not invalidate any decision of a panel.
- 10 Effect of certain other Acts**
- (1) Chapter 2 of the *Public Sector Employment and Management Act 2002* does not apply to or in respect of the appointment of a member.

(2)	If by or under any Act provision is made:	1
(a)	requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or	2 3 4
(b)	prohibiting the person from engaging in employment outside the duties of that office,	5 6
	the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.	7 8 9 10
<b>11</b>	<b>Personal liability</b>	11
	A matter or thing done or omitted to be done by a panel, a member of a panel or a person acting under the direction of a panel does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.	12 13 14 15 16 17
<b>Division 3</b>	<b>Procedure</b>	18
<b>12</b>	<b>General procedure</b>	19
	The procedure for the calling of meetings of a panel and for the conduct of business at those meetings is, subject to this Act, the regulations and the order appointing the panel, to be as determined by the panel.	20 21 22 23
<b>13</b>	<b>Quorum</b>	24
	The quorum for a meeting of a panel is a majority of its members for the time being (including the chairperson or deputy chairperson).	25 26 27
<b>14</b>	<b>Presiding member</b>	28
(1)	The chairperson of a panel (or, in the absence of the chairperson, the deputy chairperson) is to preside at a meeting of the panel.	29 30
(2)	The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.	31 32
<b>15</b>	<b>Voting</b>	33
	A decision supported by a majority of the votes cast at a meeting of a panel at which a quorum is present is the decision of the panel.	34 35 36

<b>16</b>	<b>Public meetings</b>	1
	A panel may conduct its meetings in public, and is required to do so for the conduct of any business that is required to be conducted in public by the order appointing the panel or by any subsequent order of the Minister.	2 3 4 5
<b>17</b>	<b>Transaction of business outside meetings or by telephone</b>	6
(1)	A panel may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the panel for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the panel.	7 8 9 10
(2)	A panel may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.	11 12 13 14 15
(3)	For the purposes of:	16
	(a) the approval of a resolution under subclause (1), or	17
	(b) a meeting held in accordance with subclause (2),	18
	the chairperson of the panel and each member of the panel have the same voting rights as they have at an ordinary meeting of the panel.	19 20 21
(4)	A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the relevant panel.	22 23 24
(5)	Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.	25 26 27
<b>18</b>	<b>First meeting</b>	28
	The Minister may call the first meeting of a panel in such manner as the Minister thinks fit.	29 30

<b>Schedule 3</b>	<b>Amendment of Growth Centres (Development Corporations) Act 1974 No 49</b>	1 2 3
	(Section 3)	4
<b>[1] Section 3 Definitions</b>		5
	Insert in alphabetical order in section 3 (1):	6
	<i>chief executive</i> means the chief executive of a development corporation within the meaning of section 6 (1A).	7 8
<b>[2] Section 3 (1), definition of “Director-General”</b>		9
	Omit “Urban Affairs and”.	10
<b>[3] Section 3 (1), definition of “member” and Schedule 2, clauses 9 (2) and 10 (4)</b>		11 12
	Omit “Director-General” wherever occurring.	13
	Insert instead “chief executive”.	14
<b>[4] Section 6 Provisions relating to constitution and procedure of development corporation</b>		15 16
	Omit section 6 (1), (1A) and (1B). Insert instead:	17
	(1) A development corporation is to consist of:	18
	(a) not less than 4 persons appointed by the Governor, and	19
	(b) the chief executive.	20
	(1A) The chief executive is to be:	21
	(a) a person appointed by the Minister, or	22
	(b) if from time to time no such person is appointed, the Director-General.	23 24
	(1B) The chief executive is responsible for managing the affairs of the development corporation subject to and in accordance with any directions given to the chief executive by the development corporation.	25 26 27 28
	(1C) The chief executive may be represented at any meeting of a development corporation by a person nominated for the time being by the chief executive. In so representing the chief executive, the person nominated has and may exercise and perform the same powers, authorities, duties and functions as the chief executive has at any meeting of a development corporation (including voting rights), and is taken to be the chief executive.	29 30 31 32 33 34 35

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<b>[5] Section 23</b>	1
Insert after section 22:	2
<b>23 Development corporation to prepare annual statement of business intent and other plans and reports</b>	3
	4
(1) A development corporation is to prepare an annual statement of business intent and submit that statement to the Minister and the Treasurer at such times as the Minister directs.	5
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	7
(2) A statement of business intent is to set out the business plan of the development corporation over the following year (or other period as may be required by the Minister) and is to include each of the following:	8
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	11
(a) the objectives of the corporation,	12
(b) the intended nature of its activities, including the intended scope of those activities,	13
	14
(c) the corporation's performance targets,	15
(d) the corporation's accounting and reporting policies and practices,	16
	17
(e) details of the corporation's activities in connection with determining, allocating and administering contributions under Divisions 6 and 6A of Part 4 of the <i>Environmental Planning and Assessment Act 1979</i> ,	18
	19
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	21
(f) any other matter required by the Minister.	22
(3) A development corporation is to prepare and submit to the Minister and Treasurer such other statements, reports and plans as may be specified in writing by the Minister.	23
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	25
(4) If the Minister or the Treasurer is not satisfied with a statement, report or plan submitted under this section, the Minister may direct the relevant development corporation to amend and resubmit the statement, report or plan in the manner and time specified.	26
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	30
<b>[6] Schedule 2 Provisions relating to the constitution and procedure of development corporations</b>	31
	32
Omit clause 6 (1) (b).	33

<b>[7] Schedule 6 Savings, transitional and other provisions</b>	1
Omit clause 1. Insert instead:	2
<b>1 References to General Manager and Director-General</b>	3
(1) A reference in any other Act or statutory instrument, or in any other instrument, or in any contract or agreement, to the General Manager of a corporation is to be construed:	4
(a) before the commencement of Schedule 3 [4] to the <i>Environmental Planning and Assessment Amendment Act 2006</i> —as a reference to the Director-General, and	5
(b) on or after that date—as a reference to the chief executive of that corporation.	6
(2) A reference in any other Act or statutory instrument, or in any other instrument, or in any contract or agreement, to the Director-General, in respect of the Director-General’s responsibilities as the chief executive of a development corporation, is, on or after the commencement of Schedule 3 [4] to the <i>Environmental Planning and Assessment Amendment Act 2006</i> , to be construed as a reference to the chief executive of that corporation.	7
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<b>[8] Schedule 6, clause 3</b>	20
Omit the clause. Insert instead:	21
<b>3 Regulations</b>	22
(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:	23
this Act	24
<i>Growth Centres (Development Corporations) Amendment Act 1992</i>	25
<i>Environmental Planning and Assessment Amendment Act 2006</i>	26
(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	27
(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:	28
(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	29
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- (b) to impose liabilities on any person (other than the State or  
an authority of the State) in respect of anything done or  
omitted to be done before the date of its publication. 1  
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<b>Schedule 4</b>	<b>Amendment of Redfern–Waterloo Authority Act 2004 No 107</b>	1
		2
	(Section 3)	3
<b>[1]</b>	<b>Section 19 Transfer of land or management of land of other public authorities</b>	4
		5
	Insert after section 19 (1):	6
	(1A) The Minister administering the <i>Crown Lands Act 1989</i> may transfer to the Authority, subject to the terms and conditions agreed to between that Minister and the Minister administering this Act, Crown land within the operational area or the management of any such Crown land.	7
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		11
	(1B) Part 3 of the <i>Crown Lands Act 1989</i> and sections 34 (3)–(5) and 35 of that Act do not apply to any such transfer of Crown land.	12
		13
<b>[2]</b>	<b>Section 19 (5)</b>	14
	Omit the definition of <i>public authority</i> . Insert in alphabetical order:	15
	<i>Crown land</i> has the same meaning that it has in the <i>Crown Lands Act 1989</i> but does not include a Crown reserve within the meaning of section 34A of that Act.	16
		17
		18
	<i>public authority</i> means a public authority constituted by or under an Act, and includes:	19
		20
	(a) a government department, and	21
	(b) a statutory body representing the Crown, a State owned corporation within the meaning of the <i>State Owned Corporations Act 1989</i> and a subsidiary (within the meaning of that Act), and	22
		23
		24
		25
	(c) a member of staff or other person who exercises functions on behalf of a public authority,	26
		27
	but does not include a council.	28
	<i>transfer</i> of Crown land includes the sale, lease, exchange or other disposal of or dealing with Crown land or the grant of easements or rights-of-way over, or licences or permits in respect of, Crown land.	29
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<b>[3]</b>	<b>Section 19 (6)</b>	33
	Insert “or the Minister administering the <i>Crown Lands Act 1989</i> ” after “public authority”.	34
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<b>[4] Section 27A</b>	1
Insert after section 27:	2
<b>27A Authority as consent authority under Part 4 of Environmental Planning and Assessment Act 1979</b>	3
	4
(1) This section applies to any development in the operational area that is identified under the <i>Environmental Planning and Assessment Act 1979</i> as development requiring consent under Part 4 of that Act and for which the Minister administering that Act is to be the consent authority.	5
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(2) The Minister administering the <i>Environmental Planning and Assessment Act 1979</i> may delegate to the Minister his or her functions as the consent authority for any development to which this section applies.	10
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(3) The Minister may subdelegate to the Authority, a member of staff of the Authority or the Council of the City of Sydney his or her functions as the consent authority for any development to which this section applies.	14
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<b>[5] Section 28 Authority as approval body for State infrastructure or other significant projects</b>	18
	19
Insert “, a member of staff of the Authority” after “Authority” in section 28 (3).	20
<b>[6] Section 29 Heritage matters</b>	21
Omit “a project to which Part 3A of the <i>Environmental Planning and Assessment Act 1979</i> applies” from section 29 (1).	22
	23
Insert instead “development to which Part 4 of the <i>Environmental Planning and Assessment Act 1979</i> applies (and for which a Minister is the consent authority) or that is a project to which Part 3A of that Act applies”.	24
	25
	26
<b>[7] Section 29 (4)</b>	27
Insert after section 29 (3):	28
(4) The Minister may delegate the exercise of any function of the Minister under this section (other than this power of delegation) to the Authority or a member of staff of the Authority.	29
	30
	31
<b>[8] Section 30 Development contributions for affordable housing</b>	32
Omit section 30 (1). Insert instead:	33
(1) This section applies to development:	34
(a) that is carried out on land within the operational area and that is development to which Part 4 of the <i>Environmental</i>	35
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	<i>Planning and Assessment Act 1979</i> applies (and for which a Minister is the consent authority) or that is a project to which Part 3A of that Act applies, or	1 2 3
	(b) that is carried out on land that was the former Carlton United Brewery site at Broadway, Sydney, (being the site described in the contributions plan referred to in section 32) and that is a project to which Part 3A of that Act applies.	4 5 6 7 8
<b>[9]</b>	<b>Section 30 (1A)</b>	9
	Insert after section 30 (1):	10
	(1A) Despite subsection (1), this section does not apply to land in a special contributions area within the meaning of Division 6 of Part 4 of the <i>Environmental Planning and Assessment Act 1979</i> .	11 12 13
<b>[10]</b>	<b>Section 30 (2)</b>	14
	Insert “or under that Division” before “as applied”.	15
<b>[11]</b>	<b>Section 30 (2) and (5)</b>	16
	Omit “a project” wherever occurring. Insert instead “development”.	17
<b>[12]</b>	<b>Section 31 Development contributions (other than for affordable housing)</b>	18 19
	Omit “development that is a project to which Part 3A of the <i>Environmental Planning and Assessment Act 1979</i> applies” from section 31 (1).	20 21
	Insert instead “development to which Part 4 of the <i>Environmental Planning and Assessment Act 1979</i> applies (and for which a Minister is the consent authority) or that is a project to which Part 3A of that Act applies”.	22 23 24
<b>[13]</b>	<b>Section 31 (2)</b>	25
	Omit “The approval body may impose, as a condition of approval in relation to a project”.	26 27
	Insert instead “The consent authority or approval body may impose, as a condition of development consent or approval in relation to development”.	28 29
<b>[14]</b>	<b>Section 31 (4)</b>	30
	Omit “approval”. Insert instead “approval or consent”.	31

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<b>[15] Section 31 (8) (a)</b>	1
Omit “the approval body cannot impose as a condition of the same approval”.	2
Insert instead “the consent authority or approval body cannot impose as a condition of the same consent or approval”.	3 4
<b>[16] Section 31 (8) (a)</b>	5
Insert “(other than section 94EF)” after “that Division”.	6
<b>[17] Section 32 Contributions plans and payment of development contributions</b>	7 8
Insert after section 32 (1):	9
(1A) Any such contributions plan must not authorise the imposition of a condition under section 31 of this Act or section 94 of the <i>Environmental Planning and Assessment Act 1979</i> on a grant of development consent if:	10 11 12 13
(a) the development is on land within a special contributions area within the meaning of Division 6 of Part 4 of that Act, and	14 15 16
(b) the public amenities or public services to which that condition relates are, in whole or in part, infrastructure provided in relation to the development out of contributions collected under Subdivision 4 of Division 6 of Part 4 of that Act.	17 18 19 20 21
<b>[18] Schedule 4 Savings, transitional and other provisions</b>	22
Insert at the end of clause 1 (1):	23
<i>Environmental Planning and Assessment Amendment Act 2006</i>	24
<b>[19] Schedule 4, Part 3</b>	25
Insert after Part 2:	26
<b>Part 3 Provisions consequent on enactment of Environmental Planning and Assessment Amendment Act 2006</b>	27 28 29
<b>5 Definition</b>	30
In this Part:	31
<i>amending Act</i> means the <i>Environmental Planning and Assessment Amendment Act 2006</i> .	32 33

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<b>6 Authority as consent authority</b>	1
Section 27A, as inserted by the amending Act, applies to and in respect of a development application lodged before the commencement of that section.	2 3 4
<b>7 Heritage</b>	5
Section 29 (4), as inserted by the amending Act, applies to and in respect of the following:	6 7
(a) a development application lodged before the commencement of that subsection,	8 9
(b) development that has been declared, before the commencement of that subsection, to be a project to which Part 3A of the <i>Environmental Planning and Assessment Act 1979</i> applies.	10 11 12 13
<b>8 Development contributions for affordable housing</b>	14
Section 30 (1A), as inserted by the amending Act, does not affect a condition imposed, before the commencement of that subsection, under Division 6A of Part 4 of the <i>Environmental Planning and Assessment Act 1979</i> , and any such condition continues to have effect as if that subsection had not commenced.	15 16 17 18 19
<b>9 Contributions plans</b>	20
Section 32 (1A), as inserted by the amending Act, does not affect a condition imposed, before the commencement of that subsection, under section 31 of this Act or section 94 of the <i>Environmental Planning and Assessment Act 1979</i> , and any such condition continues to have effect as if that subsection had not commenced.	21 22 23 24 25 26