

FIRST PRINT

BLUE MOUNTAINS LAND DEVELOPMENT (SPECIAL PROVISIONS)
BILL, 1985

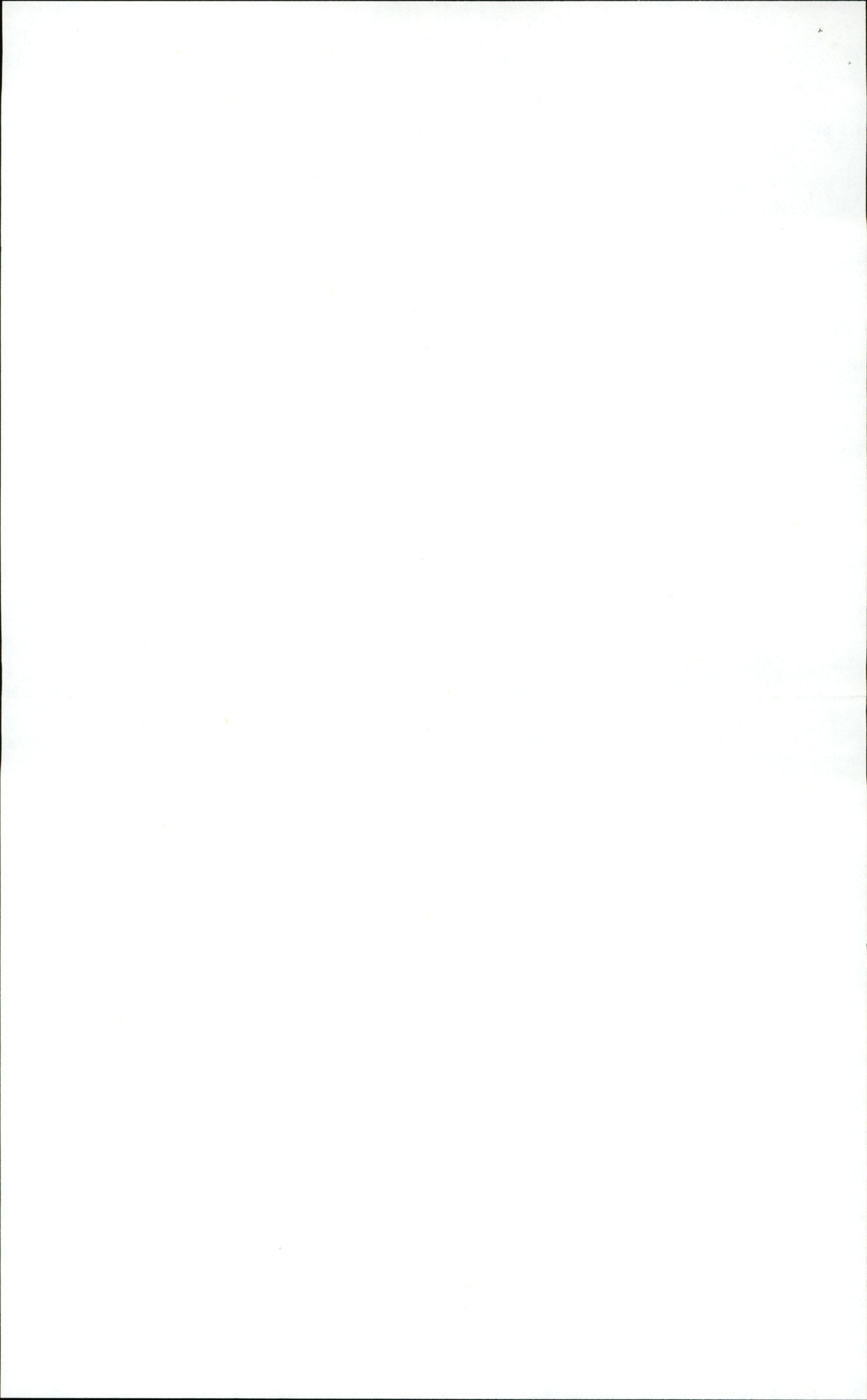
EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

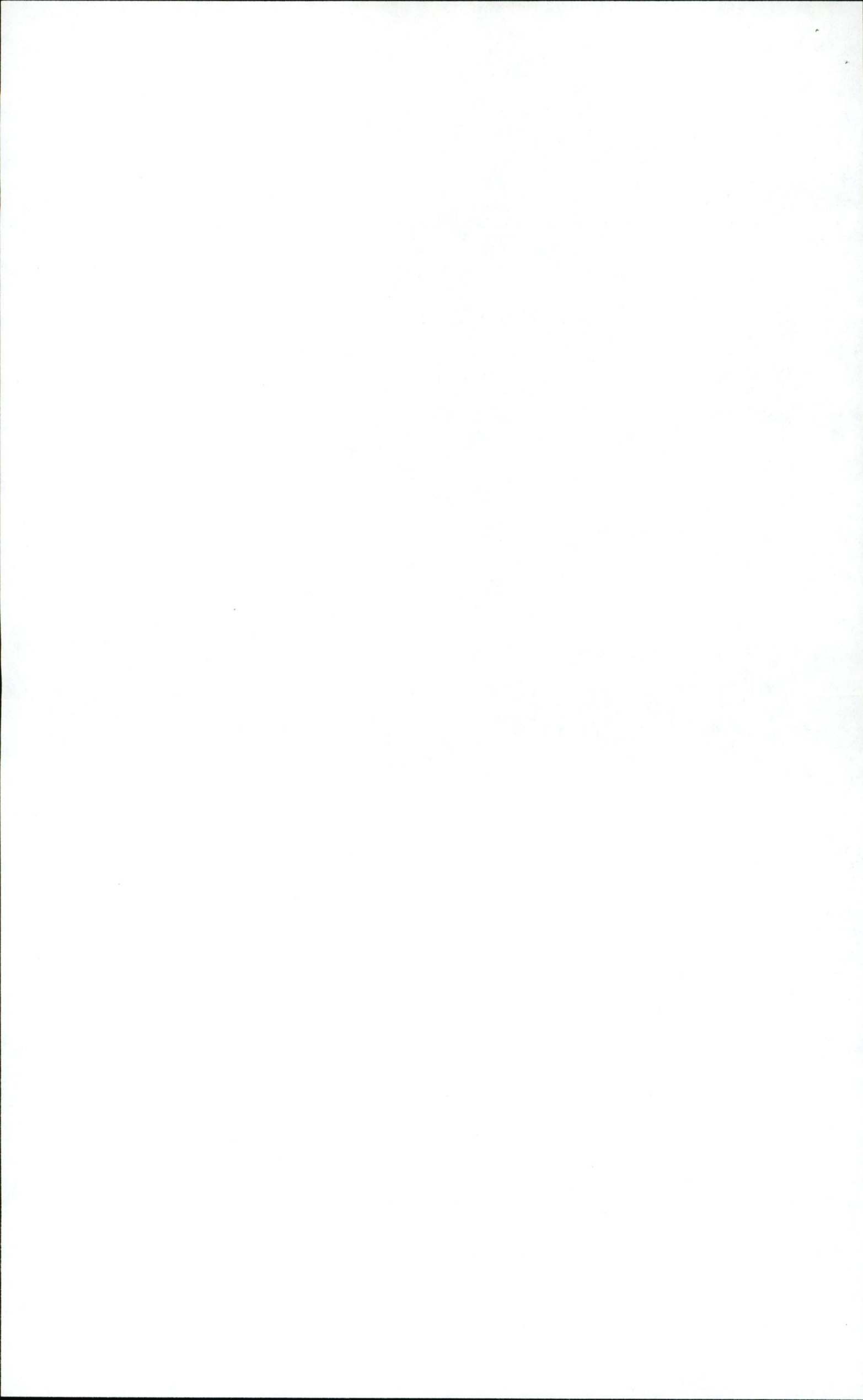
The objects of this Bill are -

- (a) to validate to the extent (if any) of any invalidity -
- (i) certain environmental planning instruments under the Environmental Planning and Assessment Act, 1979, including, in particular, Blue Mountains Local Environmental Plans Nos. 12 and 28;
 - (ii) a certain development application made with respect to the land to which those environmental planning instruments apply ("the relevant land");
and
 - (iii) the grant of a certain consent and a certain concurrence in respect of that development application by the relevant consent and concurrence authorities,
- (clause 3);
- (b) with respect to certain legal proceedings relating to the validity of those environmental planning instruments and other matters -
- (i) to terminate those proceedings; and
 - (ii) to provide that, except in so far as the parties to those proceedings otherwise agree, each party to those proceedings shall bear the party's own costs,

(clause 4);



- (c) to enable the Minister to require development applications made with respect to the relevant land to be referred to the Minister for determination and to provide that the Minister's determination shall, for all purposes other than that of an appeal by the applicant, be a final determination (clause 5); and
 - (d) to make other provisions of a minor, consequential or ancillary nature.
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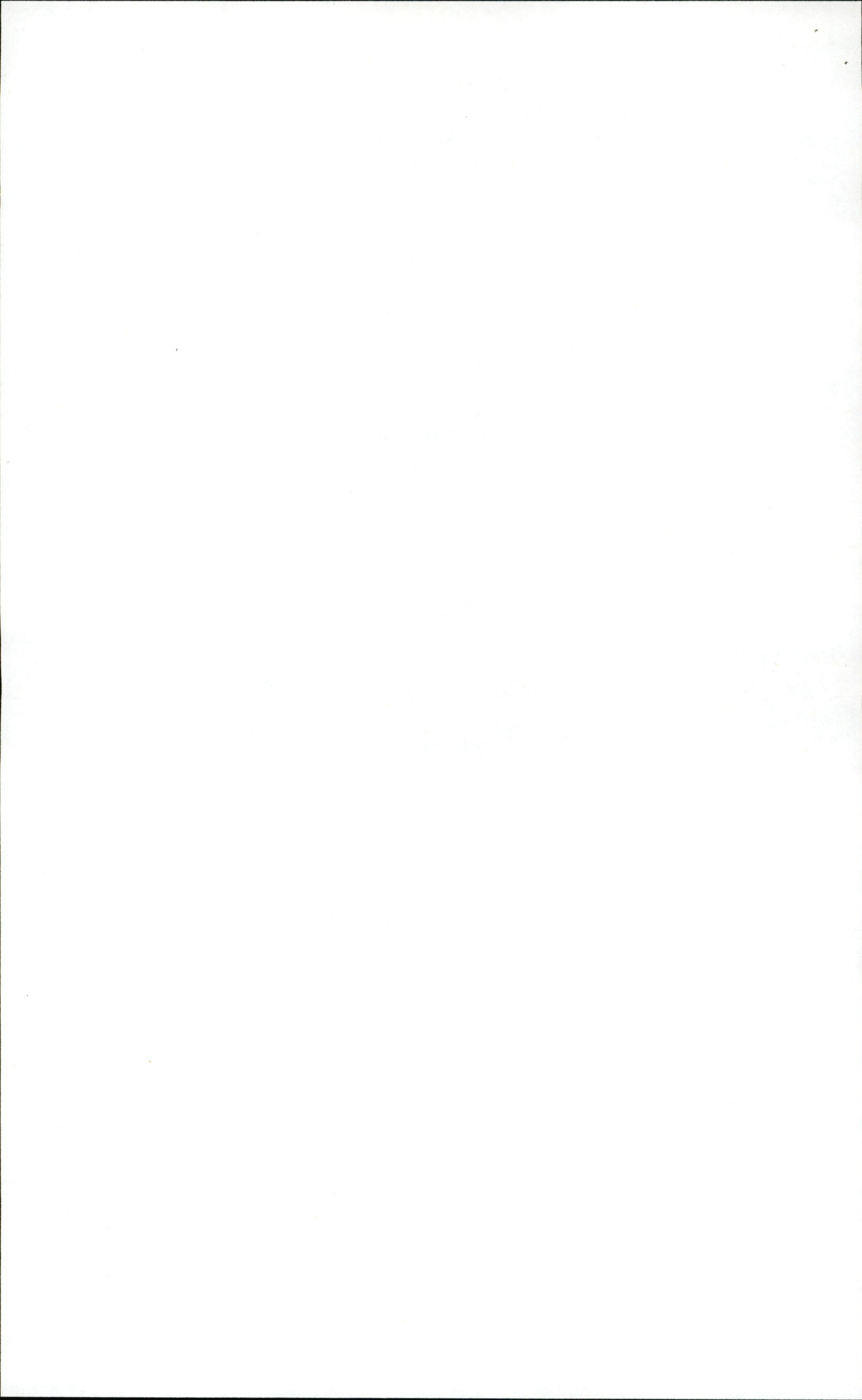


BLUE MOUNTAINS LAND DEVELOPMENT (SPECIAL PROVISIONS)
BILL, 1985

A BILL FOR

An Act to validate certain environmental planning instruments, a development application, a development consent and a concurrence under the Environmental Planning and Assessment Act, 1979; to terminate certain proceedings; and for other purposes.

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:-



Short title.

1. This Act may be cited as the "Blue Mountains Land Development (Special Provisions) Act, 1985".

Interpretation.

2. (1) In this Act -

"planning instruments" means -

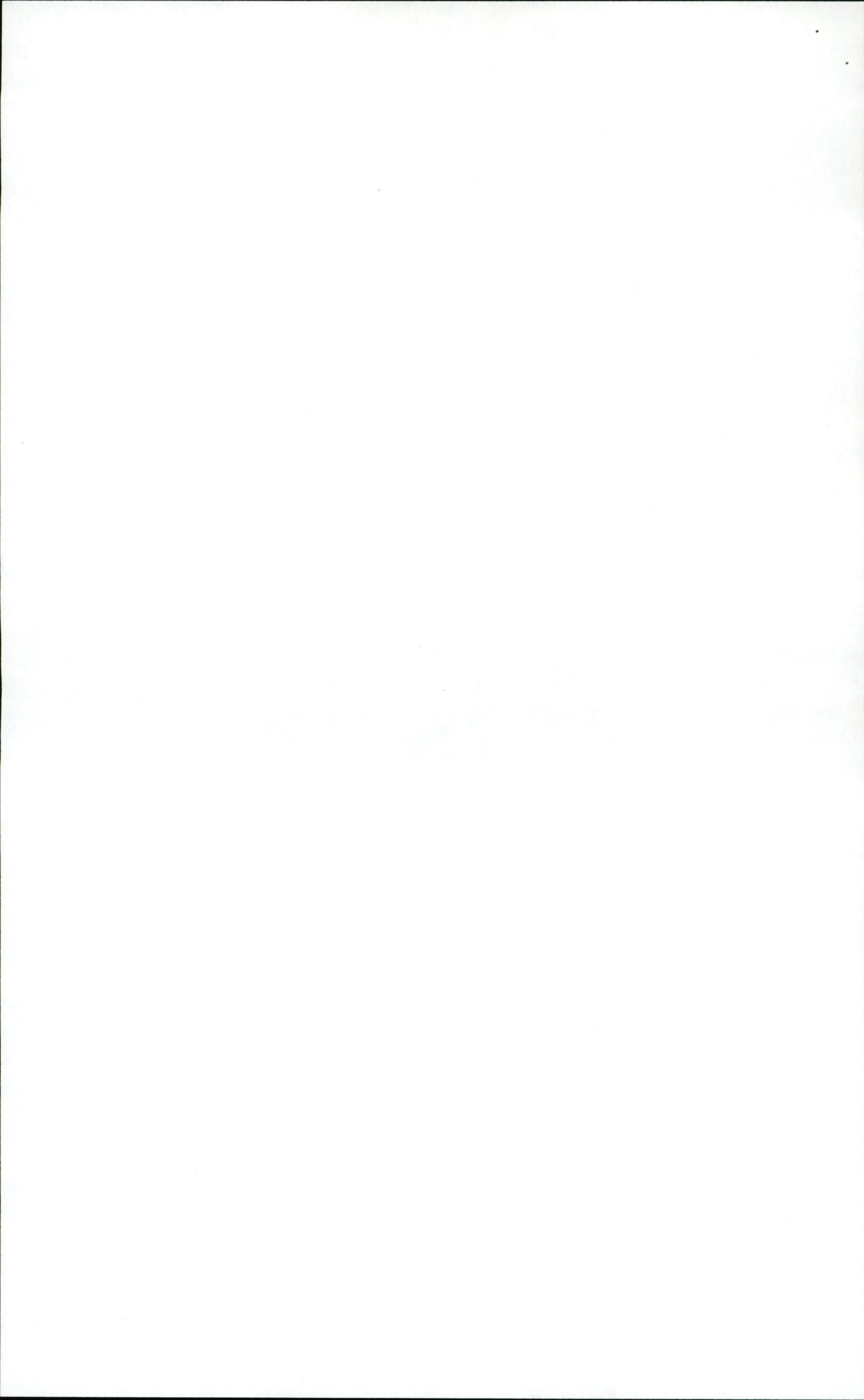
- (a) Blue Mountains Local Environmental Plan No. 4, published in Gazette No. 168 of 3rd December, 1982, and any instruments published in the Gazette before 21st September, 1984 (including Blue Mountains Local Environmental Plan No. 12, published in Gazette No. 167 of 2nd December, 1983), amending or purporting to amend Blue Mountains Local Environmental Plan No. 4; and
- (b) Blue Mountains Local Environmental Plan No. 28, published in Gazette No. 137 of 21st September, 1984;

"Principal Act" means the Environmental Planning and Assessment Act, 1979;

"the Council" means the Council of the City of Blue Mountains;

"the relevant land" means -

- (a) land in the vicinity of Fitzroy Street and Gladstone Road, Leura, as shown edged heavy black on Sheet 1 of the map marked "Blue Mountains Local Environmental Plan No. 28" deposited in the office of the Council; and



(b) portion 367 and part of portions 88, 153 and 366, Parish of Jamison, part of lots 9 and 10, section 2, D.P. 4305, part of a closed road and part of a public road off McLachlan Road, Leura, as shown edged heavy black on Sheet 2 of the map marked "Blue Mountains Local Environmental Plan No. 28" deposited in the office of the Council.

(2) Expressions used in this Act shall, unless the contrary intention appears, have the same meanings respectively as they have in the Principal Act.

Validation.

3. (1) To the extent (if any) of any invalidity, each planning instrument shall be deemed to have been validly made, and -

(a) shall be deemed to have had, during the period that commenced on the day on which it was made or purported to be made and ended immediately before the date of assent to this Act; and

(b) shall have, on and after the date of assent to this Act,

the same force and effect as it would have had if -

(c) all the planning instruments had been validly made on the respective days on which they were made or purported to be made; and

(d) without affecting the generality of the foregoing provisions of this subsection -

(i) all conditions and preliminary steps precedent to the making of the planning instruments had been complied with and performed; and

(ii) the planning instruments formed part of this Act and this Act had been in force at all relevant times.



(2) To the extent (if any) of any invalidity -

- (a) the development application dated 7th February, 1984, made or purported to be made under the Principal Act by Wills Denoon Travis and Partners Pty. Limited to the Council in relation to the relevant land is validated;
- (b) the grant of consent to that application by the Council before the date of assent to this Act is validated; and
- (c) the grant of concurrence by the Director of Environment and Planning to the development the subject of that application is validated,

and no appeals or other proceedings lie in respect of the determination of the Council with respect to that application, but nothing in this subsection prevents the applicant from appealing under section 97 of the Principal Act with respect to that determination.

(3) Subsection (1) has effect with respect to a planning instrument only in so far as the instrument applies or purports to apply to the relevant land (whether or not the instrument applies or purports to apply to any other land).

(4) Without prejudice to the generality of the foregoing provisions of this section, this section has effect in relation to any act, matter or thing and in relation to any person in respect of any act, matter or thing, whether that act, matter or thing -

- (a) occurred or occurs, arose or arises or came or comes into existence; or
- (b) was or is the subject of proceedings that were or are commenced,

before, on or after the date of assent to this Act.

Termination of proceedings.

4. (1) Any proceedings in any court (including the proceedings in -



- (a) Annie Winters v. The Council of the City of Blue Mountains, The Minister for Planning and Environment, Leura Golf Club Limited, Fairmont Resort Pty. Limited, Cann's Albury Pty. Limited and Richard Barnsley Smyth, Director of Environment and Planning, in the Supreme Court of New South Wales, Court of Appeal No. C.A. 17 of 1985 (LEC 40126 of 1984); and
- (b) Malcolm Graham Gainsford and Joanna Carroll v. The Council of the City of Blue Mountains and the Honourable Robert Carr, Minister for Planning and Environment, No. 40206 of 1984, in the Land and Environment Court),

pending immediately before the date of assent to the Act in relation to -

- (c) any of the planning instruments in so far as they apply to the relevant land (whether or not the instruments apply to any other land);
- (d) any development application, grant of consent or grant of concurrence referred to in section 3(2); or
- (e) any associated matters,

are terminated.

(2) Except in so far as the parties to any proceedings referred to in subsection (1) otherwise agree, the costs of or incidental to the proceedings incurred by a party to the proceedings shall be borne by the party, and shall not be the subject of any contrary order of any court.

(3) Notwithstanding anything in subsection (2), the Treasurer may, in the absolute discretion of the Treasurer, pay from the Consolidated Fund to any party to any proceedings referred to in subsection (1) the whole or any part of any amount that the Attorney General, on application



made to the Attorney General in writing by or on behalf of that party, certifies as being the costs of or incidental to the proceedings reasonably incurred by that party up to the time of their termination by subsection (1).

(4) Nothing in subsection (1) applies to an appeal under section 97 of the Principal Act.

Determination of certain development applications by the Minister.

5. (1) The Minister may give directions to the Council that -

- (a) any development application; or
- (b) any development application of a class or description of development applications specified by the Minister,

made in relation to the relevant land, shall be referred to the Minister for determination.

(2) The Minister, in relation to any development application the subject of a direction under subsection (1) -

- (a) shall be the consent authority; and
- (b) shall determine the application under and in accordance with the Principal Act.

(3) The Minister may give directions to the Council requiring it to furnish to the Minister such information with respect to any development application referred to the Minister under subsection (1) as the Minister may specify.

(4) The Council shall comply with any direction given to it under subsection (3) within such period as may be specified in the direction.



(5) No appeals or other proceedings lie in respect of the determination of the Minister with respect to a development application referred to the Minister under subsection (1), but nothing in this subsection prevents the applicant from appealing under section 97 of the Principal Act with respect to that determination.

(6) In this section, a reference to a development application includes a reference to an application made under section 102 of the Principal Act.

BLUE MOUNTAINS LAND DEVELOPMENT (SPECIAL PROVISIONS) BILL, 1985

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to validate to the extent (if any) of any invalidity—
 - (i) certain environmental planning instruments under the Environmental Planning and Assessment Act, 1979, including, in particular, Blue Mountains Local Environmental Plans Nos. 12 and 28;
 - (ii) a certain development application made with respect to the land to which those environmental planning instruments apply (“the relevant land”); and
 - (iii) the grant of a certain consent and a certain concurrence in respect of that development application by the relevant consent and concurrence authorities,
(clause 3);
 - (b) with respect to certain legal proceedings relating to the validity of those environmental planning instruments and other matters—
 - (i) to terminate those proceedings; and
 - (ii) to provide that, except in so far as the parties to those proceedings otherwise agree, each party to those proceedings shall bear the party’s own costs,
(clause 4);
 - (c) to enable the Minister to require development applications made with respect to the relevant land to be referred to the Minister for determination and to provide that the minister’s determination shall, for all purposes other than that of an appeal by the applicant, be a final determination (clause 5); and
 - (d) to make other provisions of a minor, consequential or ancillary nature.
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**BLUE MOUNTAINS LAND DEVELOPMENT (SPECIAL
PROVISIONS) BILL, 1985**

No. , 1985.

A BILL FOR

An Act to validate certain environmental planning instruments, a development application, a development consent and a concurrence under the Environmental Planning and Assessment Act, 1979; to terminate certain proceedings; and for other purposes.

Blue Mountains Land Development (Special Provisions) 1985

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:—

5 Short title.

1. This Act may be cited as the "Blue Mountains Land Development (Special Provisions) Act, 1985".

Interpretation.

2. (1) In this Act—

10 "planning instruments" means—

- (a) Blue Mountains Local Environmental Plan No. 4, published in Gazette No. 168 of 3rd December, 1982, and any instruments published in the Gazette before 21st September, 1984 (including Blue Mountains Local Environmental Plan No. 12, published in Gazette No. 167 of 2nd December, 1983), amending or purporting to amend Blue Mountains Local Environmental Plan No. 4; and
- 15
- (b) Blue Mountains Local Environmental Plan No. 28, published in Gazette No. 137 of 21st September, 1984;
- 20

"Principal Act" means the Environmental Planning and Assessment Act, 1979;

"the Council" means the Council of the City of Blue Mountains;

"the relevant land" means—

- 25 (a) land in the vicinity of Fitzroy Street and Gladstone Road, Leura, as shown edged heavy black on Sheet 1 of the map marked "Blue Mountains Local Environmental Plan No. 28" deposited in the office of the Council; and
- 30 (b) portion 367 and part of portions 88, 153 and 366, Parish of Jamison, part of lots 9 and 10, section D.P. 4305, part of a closed road and part of a public road off McLachlan Road, Leura, as shown edged heavy black on Sheet 2 of the map marked "Blue Mountains Local Environmental Plan No. 28" deposited in the office of the Council.

Blue Mountains Land Development (Special Provisions) 1985

(2) Expressions used in this Act shall, unless the contrary intention appears, have the same meanings respectively as they have in the Principal Act.

Validation.

- 5 **3. (1)** To the extent (if any) of any invalidity, each planning instrument shall be deemed to have been validly made, and—
- (a) shall be deemed to have had, during the period that commenced on the day on which it was made or purported to be made and ended immediately before the date of assent to this Act; and
- 10 (b) shall have, on and after the date of assent to this Act, the same force and effect as it would have had if—
- (c) all the planning instruments had been validly made on the respective days on which they were made or purported to be made; and
- 15 (d) without affecting the generality of the foregoing provisions of this subsection—
- (i) all conditions and preliminary steps precedent to the making of the planning instruments had been complied with and performed; and
- 20 (ii) the planning instruments formed part of this Act and this Act had been in force at all relevant times.
- (2) To the extent (if any) of any invalidity—
- (a) the development application dated 7th February, 1984, made or purported to be made under the Principal Act by Wills Denoon
- 25 Travis and Partners Pty Limited to the Council in relation to the relevant land is validated;
- (b) the grant of consent to that application by the Council before the date of assent to this Act is validated; and
- (c) the grant of concurrence by the Director of Environment and
- 30 Planning to the development the subject of that application is validated,
- and no appeals or other proceedings lie in respect of the determination of the Council with respect to that application, but nothing in this subsection prevents the applicant from appealing under section 97 of the Principal Act
- 35 with respect to that determination.

Blue Mountains Land Development (Special Provisions) 1985

(3) Subsection (1) has effect with respect to a planning instrument only in so far as the instrument applies or purports to apply to the relevant land (whether or not the instrument applies or purports to apply to any other land).

5 (4) Without prejudice to the generality of the foregoing provisions of this section, this section has effect in relation to any act, matter or thing and in relation to any person in respect of any act, matter or thing, whether that act, matter or thing—

10 (a) occurred or occurs, arose or arises or came or comes into existence; or

(b) was or is the subject of proceedings that were or are commenced, before, on or after the date of assent to this Act.

Termination of proceedings.

4. (1) Any proceedings in any court (including the proceedings in—

15 (a) *Annie Winters v. The Council of the City of Blue Mountains, The Minister for Planning and Environment, Leura Golf Club Limited, Fairmont Resort Pty. Limited, Cann's Albury Pty. Limited and Richard Barnsley Smyth, Director of Environment and Planning, in the Supreme Court of New South Wales, Court of Appeal No. C.A. 17 of 1985 (LEC 40126 of 1984); and*

20

(b) *Malcolm Graham Gainsford and Joanna Carroll v. The Council of the City of Blue Mountains and the Honourable Robert Carr, Minister for Planning and Environment, No. 40206 of 1984, in the Land and Environment Court,*

25 pending immediately before the date of assent to the Act in relation to—

(c) any of the planning instruments in so far as they apply to the relevant land (whether or not the instruments apply to any other land);

30 (d) any development application, grant of consent or grant of concurrence referred to in section 3 (2); or

(e) any associated matters,

are terminated.

Blue Mountains Land Development (Special Provisions) 1985

(2) Except in so far as the parties to any proceedings referred to in subsection (1) otherwise agree, the costs of or incidental to the proceedings incurred by a party to the proceedings shall be borne by the party, and shall not be the subject of any contrary order of any court.

5 (3) Notwithstanding anything in subsection (2), the Treasurer may, in the absolute discretion of the Treasurer, pay from the Consolidated Fund to any party to any proceedings referred to in subsection (1) the whole or any part of any amount that the Attorney General, on application made to the Attorney General in writing by or on behalf of that party, certifies as being
10 the costs of or incidental to the proceedings reasonably incurred by that party up to the time of their termination by subsection (1).

(4) Nothing in subsection (1) applies to an appeal under section 97 of the Principal Act.

Determination of certain development applications by the Minister.

15 5. (1) The Minister may give directions to the Council that—

(a) any development application; or

(b) any development application of a class or description of development applications specified by the Minister,

made in relation to the land, shall be referred to the Minister for
20 determination.

(2) The Minister, in relation to any development application the subject of a direction under subsection (1)—

(a) shall be the consent authority; and

25 (b) shall determine the application under and in accordance with the Principal Act.

(3) The Minister may give directions to the Council requiring it to furnish to the Minister such information with respect to any development application referred to the Minister under subsection (1) as the Minister may specify.

30 (4) The Council shall comply with any direction given to it under subsection (3) within such period as may be specified in the direction.

Blue Mountains Land Development (Special Provisions) 1985

(5) No appeals or other proceedings lie in respect of the determination of the Minister with respect to a development application referred to the Minister under subsection (1), but nothing in this section prevents the applicant from appealing under section 97 of the Principal Act with respect
5 to that determination.

(6) In this section, a reference to a development application includes a reference to an application made under section 102 of the Principal Act.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1985

BLUE MOUNTAINS LAND DEVELOPMENT (SPECIAL PROVISIONS) BILL, 1985

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to validate to the extent (if any) of any invalidity—
 - (i) certain environmental planning instruments under the Environmental Planning and Assessment Act, 1979, including, in particular, Blue Mountains Local Environmental Plans Nos. 12 and 28;
 - (ii) a certain development application made with respect to the land to which those environmental planning instruments apply (“the relevant land”); and
 - (iii) the grant of a certain consent and a certain concurrence in respect of that development application by the relevant consent and concurrence authorities,(clause 3);
 - (b) with respect to certain legal proceedings relating to the validity of those environmental planning instruments and other matters—
 - (i) to terminate those proceedings; and
 - (ii) to provide that, except in so far as the parties to those proceedings otherwise agree, each party to those proceedings shall bear the party’s own costs,(clause 4);
 - (c) to enable the Minister to require development applications made with respect to the relevant land to be referred to the Minister for determination and to provide that the minister’s determination shall, for all purposes other than that of an appeal by the applicant, be a final determination (clause 5); and
 - (d) to make other provisions of a minor, consequential or ancillary nature.
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**BLUE MOUNTAINS LAND DEVELOPMENT (SPECIAL
PROVISIONS) BILL, 1985**

No. , 1985.

A BILL FOR

An Act to validate certain environmental planning instruments, a development application, a development consent and a concurrence under the Environmental Planning and Assessment Act, 1979; to terminate certain proceedings; and for other purposes.

Blue Mountains Land Development (Special Provisions) 1985

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:—

5 Short title.

1. This Act may be cited as the "Blue Mountains Land Development (Special Provisions) Act, 1985".

Interpretation.

2. (1) In this Act—

10 "planning instruments" means—

(a) Blue Mountains Local Environmental Plan No. 4, published in Gazette No. 168 of 3rd December, 1982, and any instruments published in the Gazette before 21st September, 1984 (including Blue Mountains Local Environmental Plan No. 12, published in Gazette No. 167 of 2nd December, 1983), amending or purporting to amend Blue Mountains Local Environmental Plan No. 4; and

20 (b) Blue Mountains Local Environmental Plan No. 28, published in Gazette No. 137 of 21st September, 1984;

"Principal Act" means the Environmental Planning and Assessment Act, 1979;

"the Council" means the Council of the City of Blue Mountains;

"the relevant land" means—

25 (a) land in the vicinity of Fitzroy Street and Gladstone Road, Leura, as shown edged heavy black on Sheet 1 of the map marked "Blue Mountains Local Environmental Plan No. 28" deposited in the office of the Council; and

30 (b) portion 367 and part of portions 88, 153 and 366, Parish of Jamison, part of lots 9 and 10, section 2, D.P. 4305, part of a closed road and part of a public road off McLachlan Road, Leura, as shown edged heavy black on Sheet 2 of the map marked "Blue Mountains Local Environmental Plan No. 28" deposited in the office of the Council.

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Blue Mountains Land Development (Special Provisions) 1985

(2) Expressions used in this Act shall, unless the contrary intention appears, have the same meanings respectively as they have in the Principal Act.

Validation.

5 3. (1) To the extent (if any) of any invalidity, each planning instrument shall be deemed to have been validly made, and—

(a) shall be deemed to have had, during the period that commenced on the day on which it was made or purported to be made and ended immediately before the date of assent to this Act; and

10 (b) shall have, on and after the date of assent to this Act,

the same force and effect as it would have had if—

(c) all the planning instruments had been validly made on the respective days on which they were made or purported to be made; and

15 (d) without affecting the generality of the foregoing provisions of this subsection—

(i) all conditions and preliminary steps precedent to the making of the planning instruments had been complied with and performed; and

20 (ii) the planning instruments formed part of this Act and this Act had been in force at all relevant times.

(2) To the extent (if any) of any invalidity—

25 (a) the development application dated 7th February, 1984, made or purported to be made under the Principal Act by Wills Denoon Travis and Partners Pty Limited to the Council in relation to the relevant land is validated;

(b) the grant of consent to that application by the Council before the date of assent to this Act is validated; and

30 (c) the grant of concurrence by the Director of Environment and Planning to the development the subject of that application is validated,

and no appeals or other proceedings lie in respect of the determination of the Council with respect to that application, but nothing in this subsection prevents the applicant from appealing under section 97 of the Principal Act
35 with respect to that determination.

Blue Mountains Land Development (Special Provisions) 1985

(3) Subsection (1) has effect with respect to a planning instrument only in so far as the instrument applies or purports to apply to the relevant land (whether or not the instrument applies or purports to apply to any other land).

5 (4) Without prejudice to the generality of the foregoing provisions of this section, this section has effect in relation to any act, matter or thing and in relation to any person in respect of any act, matter or thing, whether that act, matter or thing—

10 (a) occurred or occurs, arose or arises or came or comes into existence; or

(b) was or is the subject of proceedings that were or are commenced, before, on or after the date of assent to this Act.

Termination of proceedings.

4. (1) Any proceedings in any court (including the proceedings in—

15 (a) *Annie Winters v. The Council of the City of Blue Mountains, The Minister for Planning and Environment, Leura Golf Club Limited, Fairmont Resort Pty. Limited, Cann's Albury Pty. Limited and Richard Barnsley Smyth, Director of Environment and Planning, in the Supreme Court of New South Wales, Court of Appeal No. 20 C.A. 17 of 1985 (LEC 40126 of 1984); and*

(b) *Malcolm Graham Gainsford and Joanna Carroll v. The Council of the City of Blue Mountains and the Honourable Robert Carr, Minister for Planning and Environment, No. 40206 of 1984, in the Land and Environment Court),*

25 pending immediately before the date of assent to the Act in relation to—

(c) any of the planning instruments in so far as they apply to the relevant land (whether or not the instruments apply to any other land);

30 (d) any development application, grant of consent or grant of concurrence referred to in section 3 (2); or

(e) any associated matters,

are terminated.

Blue Mountains Land Development (Special Provisions) 1985

(2) Except in so far as the parties to any proceedings referred to in subsection (1) otherwise agree, the costs of or incidental to the proceedings incurred by a party to the proceedings shall be borne by the party, and shall not be the subject of any contrary order of any court.

5 (3) Notwithstanding anything in subsection (2), the Treasurer may, in the absolute discretion of the Treasurer, pay from the Consolidated Fund to any party to any proceedings referred to in subsection (1) the whole or any part of any amount that the Attorney General, on application made to the Attorney General in writing by or on behalf of that party, certifies as being
10 the costs of or incidental to the proceedings reasonably incurred by that party up to the time of their termination by subsection (1).

(4) Nothing in subsection (1) applies to an appeal under section 97 of the Principal Act.

Determination of certain development applications by the Minister.

15 5. (1) The Minister may give directions to the Council that—

(a) any development application; or

(b) any development application of a class or description of development applications specified by the Minister,

made in relation to the land, shall be referred to the Minister for
20 determination.

(2) The Minister, in relation to any development application the subject of a direction under subsection (1)—

(a) shall be the consent authority; and

25 (b) shall determine the application under and in accordance with the Principal Act.

(3) The Minister may give directions to the Council requiring it to furnish to the Minister such information with respect to any development application referred to the Minister under subsection (1) as the Minister may specify.

30 (4) The Council shall comply with any direction given to it under subsection (3) within such period as may be specified in the direction.

Blue Mountains Land Development (Special Provisions) 1985

(5) No appeals or other proceedings lie in respect of the determination of the Minister with respect to a development application referred to the Minister under subsection (1), but nothing in this section prevents the applicant from appealing under section 97 of the Principal Act with respect
5 to that determination.

(6) In this section, a reference to a development application includes a reference to an application made under section 102 of the Principal Act.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1985

BLUE MOUNTAINS LAND DEVELOPMENT (SPECIAL PROVISIONS) ACT, 1985, No. 55

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

* * * * *

Act No. 55, 1985.

An Act to validate certain environmental planning instruments, a development application, a development consent and a concurrence under the Environmental Planning and Assessment Act, 1979; to terminate certain proceedings; and for other purposes. [Assented to, 15th May, 1985.]

Blue Mountains Land Development (Special Provisions) 1985

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:—

Short title.

1. This Act may be cited as the "Blue Mountains Land Development (Special Provisions) Act, 1985".

Interpretation.

2. (1) In this Act—

"planning instruments" means—

- (a) Blue Mountains Local Environmental Plan No. 4, published in Gazette No. 168 of 3rd December, 1982, and any instruments published in the Gazette before 21st September, 1984 (including Blue Mountains Local Environmental Plan No. 12, published in Gazette No. 167 of 2nd December, 1983), amending or purporting to amend Blue Mountains Local Environmental Plan No. 4; and
- (b) Blue Mountains Local Environmental Plan No. 28, published in Gazette No. 137 of 21st September, 1984;

"Principal Act" means the Environmental Planning and Assessment Act, 1979;

"the Council" means the Council of the City of Blue Mountains;

"the relevant land" means—

- (a) land in the vicinity of Fitzroy Street and Gladstone Road, Leura, as shown edged heavy black on Sheet 1 of the map marked "Blue Mountains Local Environmental Plan No. 28" deposited in the office of the Council; and
- (b) portion 367 and part of portions 88, 153 and 366, Parish of Jamison, part of lots 9 and 10, section 2, D.P. 4305, part of a closed road and part of a public road off McLachlan Road, Leura, as shown edged heavy black on Sheet 2 of the map marked "Blue Mountains Local Environmental Plan No. 28" deposited in the office of the Council.

Blue Mountains Land Development (Special Provisions) 1985

(2) Expressions used in this Act shall, unless the contrary intention appears, have the same meanings respectively as they have in the Principal Act.

Validation.

3. (1) To the extent (if any) of any invalidity, each planning instrument shall be deemed to have been validly made, and—

(a) shall be deemed to have had, during the period that commenced on the day on which it was made or purported to be made and ended immediately before the date of assent to this Act; and

(b) shall have, on and after the date of assent to this Act, the same force and effect as it would have had if—

(c) all the planning instruments had been validly made on the respective days on which they were made or purported to be made; and

(d) without affecting the generality of the foregoing provisions of this subsection—

(i) all conditions and preliminary steps precedent to the making of the planning instruments had been complied with and performed; and

(ii) the planning instruments formed part of this Act and this Act had been in force at all relevant times.

(2) To the extent (if any) of any invalidity—

(a) the development application dated 7th February, 1984, made or purported to be made under the Principal Act by Wills Denoon Travis and Partners Pty Limited to the Council in relation to the relevant land is validated;

(b) the grant of consent to that application by the Council before the date of assent to this Act is validated; and

(c) the grant of concurrence by the Director of Environment and Planning to the development the subject of that application is validated,

and no appeals or other proceedings lie in respect of the determination of the Council with respect to that application, but nothing in this subsection prevents the applicant from appealing under section 97 of the Principal Act with respect to that determination.

Blue Mountains Land Development (Special Provisions) 1985

(3) Subsection (1) has effect with respect to a planning instrument only in so far as the instrument applies or purports to apply to the relevant land (whether or not the instrument applies or purports to apply to any other land).

(4) Without prejudice to the generality of the foregoing provisions of this section, this section has effect in relation to any act, matter or thing and in relation to any person in respect of any act, matter or thing, whether that act, matter or thing—

(a) occurred or occurs, arose or arises or came or comes into existence; or

(b) was or is the subject of proceedings that were or are commenced, before, on or after the date of assent to this Act.

Termination of proceedings.

4. (1) Any proceedings in any court (including the proceedings in—

(a) *Annie Winters v. The Council of the City of Blue Mountains, The Minister for Planning and Environment, Leura Golf Club Limited, Fairmont Resort Pty. Limited, Cann's Albury Pty. Limited and Richard Barnsley Smyth, Director of Environment and Planning, in the Supreme Court of New South Wales, Court of Appeal No. C.A. 17 of 1985 (LEC 40126 of 1984); and*

(b) *Malcolm Graham Gainsford and Joanna Carroll v. The Council of the City of Blue Mountains and the Honourable Robert Carr, Minister for Planning and Environment, No. 40206 of 1984, in the Land and Environment Court,*

pending immediately before the date of assent to the Act in relation to—

(c) any of the planning instruments in so far as they apply to the relevant land (whether or not the instruments apply to any other land);

(d) any development application, grant of consent or grant of concurrence referred to in section 3 (2); or

(e) any associated matters,

are terminated.

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(2) Except in so far as the parties to any proceedings referred to in subsection (1) otherwise agree, the costs of or incidental to the proceedings incurred by a party to the proceedings shall be borne by the party, and shall not be the subject of any contrary order of any court.

(3) Notwithstanding anything in subsection (2), the Treasurer may, in the absolute discretion of the Treasurer, pay from the Consolidated Fund to any party to any proceedings referred to in subsection (1) the whole or any part of any amount that the Attorney General, on application made to the Attorney General in writing by or on behalf of that party, certifies as being the costs of or incidental to the proceedings reasonably incurred by that party up to the time of their termination by subsection (1).

(4) Nothing in subsection (1) applies to an appeal under section 97 of the Principal Act.

Determination of certain development applications by the Minister.

5. (1) The Minister may give directions to the Council that—

- (a) any development application; or
- (b) any development application of a class or description of development applications specified by the Minister,

made in relation to the land, shall be referred to the Minister for determination.

(2) The Minister, in relation to any development application the subject of a direction under subsection (1)—

- (a) shall be the consent authority; and
- (b) shall determine the application under and in accordance with the Principal Act.

(3) The Minister may give directions to the Council requiring it to furnish to the Minister such information with respect to any development application referred to the Minister under subsection (1) as the Minister may specify.

(4) The Council shall comply with any direction given to it under subsection (3) within such period as may be specified in the direction.

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(5) No appeals or other proceedings lie in respect of the determination of the Minister with respect to a development application referred to the Minister under subsection (1), but nothing in this section prevents the applicant from appealing under section 97 of the Principal Act with respect to that determination.

(6) In this section, a reference to a development application includes a reference to an application made under section 102 of the Principal Act.

In the name and on behalf of Her Majesty I assent to this Act.

J. A. ROWLAND,
Governor.

Government House,
Sydney, 15th May, 1985.

BY AUTHORITY

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