

FIRST PRINT

**ALBURY-WODONGA DEVELOPMENT (AMENDMENT)
BILL 1991**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend the Albury-Wodonga Development Act 1974 for the following purposes:

- * to provide for the execution and approval of the Albury-Wodonga Area Development Agreement Amendment Agreement (No. 2); and
- * to change the composition of the Albury-Wodonga (New South Wales) Corporation; and
- * to prescribe different functions for the Albury-Wodonga Development Corporation; and
- * to prescribe fresh constitutional provisions for the Albury-Wodonga Development Corporation; and
- * to provide for certain planning functions of the Albury-Wodonga Development Corporation to be transferred to the Albury City Council and the Hume Shire Council.

The Bill also deals with other matters of a minor, ancillary or consequential nature.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that, with certain exceptions, the proposed Act is to commence on a day or days to be appointed by proclamation. Clauses 1 and 2 and the provisions of proposed Schedule 1 (4) and (23) (which relate to the execution and approval of the proposed Albury-Wodonga Area Development Agreement Amendment Agreement (No. 2)) are to commence on the date of assent.

Clause 3 gives effect to the Schedule of amendments.

Schedule 1 (1) makes a minor amendment to the long title of the Principal Act. The amendment is consequential on the amendment made by Schedule 1 (3) (k).

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Schedule 1 (2) will repeal section 3 of the Principal Act (Division of Act). Because all new Acts and reprints of old Acts now contain tables of provisions, the section has become redundant.

Schedule 1 (3) amends section 4 of the Principal Act (Definitions). The definitions of "Authority" and "executive member" are no longer required and are to be repealed. The definition of "appointed member" is to be replaced with a new definition which will make it clear that the expression does not include a reference to the chief executive officer. Definitions of "chairperson" and "deputy chairperson" are to replace the definitions of "Chairman" and "Deputy Chairman" and definitions of "chief executive officer" and "Department" are introduced. Proposed section 4 (2) defines "functions" for the purposes of the Principal Act.

Schedule 1 (4) inserts in the Principal Act proposed section 5B, which provides for the Parliament to authorise the Premier to execute an agreement that is substantially in the form set out in proposed Schedule 1B (which sets out the terms of the proposed Albury-Wodonga Area Development Agreement Amendment Agreement (No. 2)) or, if already executed by the Commonwealth and the States of New South Wales and Victoria, to ratify the execution of the agreement by the Premier. The proposed section also provides for the agreement to be approved by the Parliament.

Schedule 1 (5), (6), (8)-(10), (13), (14) (a), (17) and (19) make minor amendments to sections 6, 7-9, 16, 18, 19, 20, 21, 34 and 39 of the Principal Act and replace the heading to Part 4 of that Act. The amendments are consequential on the amendment to be made by Schedule 1 (3) (k).

Schedule 1 (7) repeals and replaces section 7 of the Principal Act with proposed sections 7 and 7A. Proposed section 7 provides for the reconstitution of the membership of the Albury-Wodonga (New South Wales) Corporation. The Corporation will consist of 7 appointed members and the chief executive officer of the Corporation (who is to be the chief executive officer of the Albury-Wodonga Development Corporation). Proposed section 7A provides for the chief executive officer of the Albury-Wodonga (New South Wales) Corporation to be responsible for the day-to-day management of the affairs of the Corporation subject to and in accordance with any directions of the Corporation.

Schedule 1 (11) makes a minor amendment to section 13 of the Principal Act (Dedication of land) and is consequential on the replacement of the Crown Lands Consolidation Act 1913 by the Crown Lands Act 1989.

Schedule 1 (12) repeals section 17 (2) of the Principal Act which provides for the now defunct State Planning Authority to undertake legal and other work of the Corporation.

Schedule 1 (15) repeals and replaces section 22 of the Principal Act. Proposed section 22 will authorise the Albury-Wodonga Development Corporation:

- * to carry out investigations and studies; and
- * to consult with authorities and bodies on any environmental planning matter; and
- * to advise those authorities and bodies with respect to regional planning issues.

Schedule 1 (16) repeals section 23 of the Principal Act (Environmental planning instruments). As a result of the repeal, the planning powers of the Albury-Wodonga Development Corporation will revert to the Albury City Council and the Hume Shire Council.

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Schedule 1 (18) amends section 36 of the Act (Misuse of information). The amendment updates references in that section to the Department of Decentralisation and Development (now Business and Consumer Affairs) and removes from that section provisions relating to the now defunct State Planning Authority and Regional Planning Committees.

Schedule 1 (20) amends section 40 of the Principal Act (Annual report). The amendment will enable an annual report of the Albury-Wodonga (New South Wales) Corporation to form part of an annual report jointly prepared by the Albury-Wodonga Development Corporation, the Albury-Wodonga (New South Wales) Corporation and the Albury-Wodonga (Victoria) Corporation.

Schedule 1 (21) amends section 43 of the Principal Act (Proceedings for offences) by substituting "Local Court" for the outdated references to "stipendiary magistrate" and "justices of the peace in petty sessions".

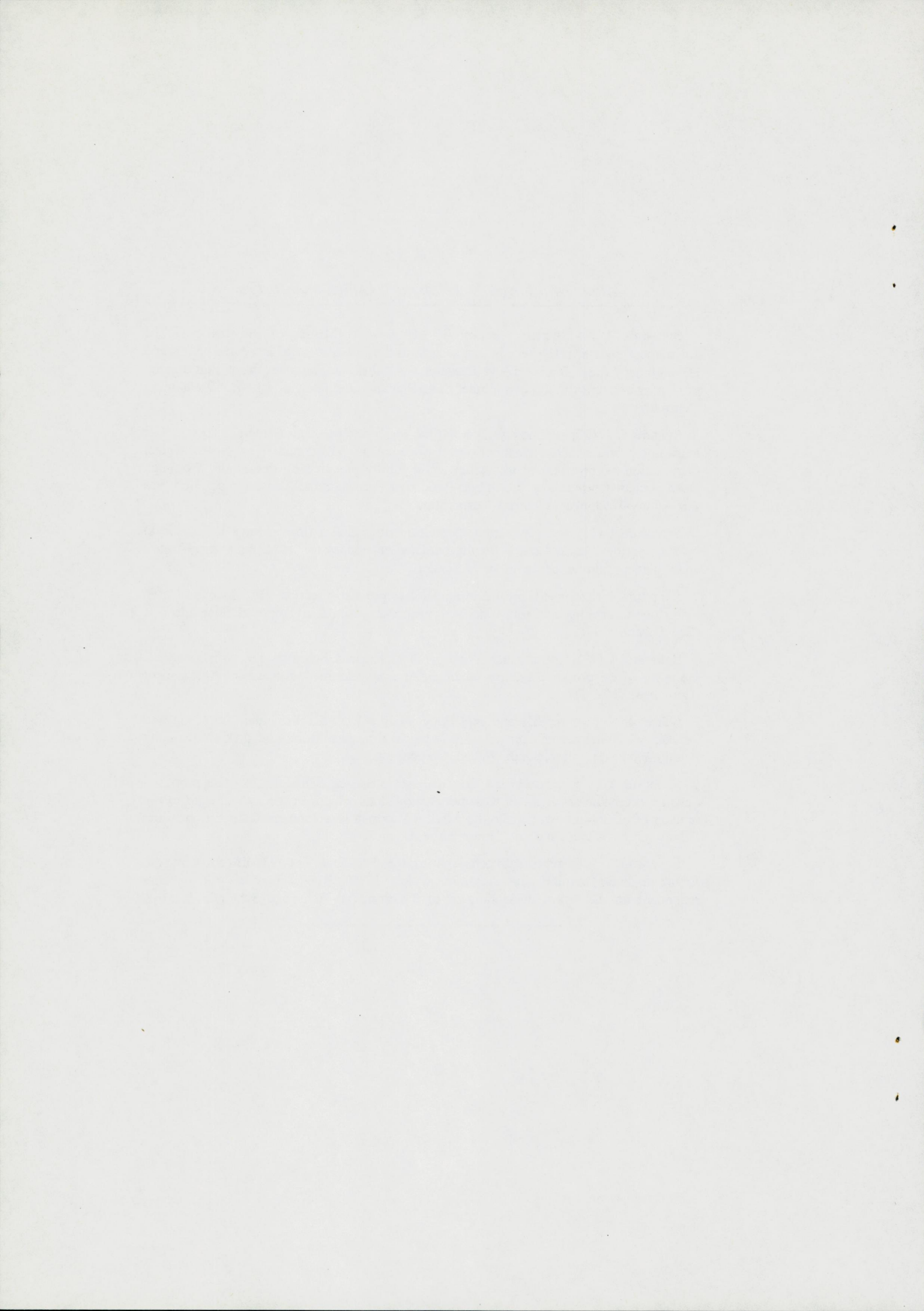
Schedule 1 (22) inserts in the Principal Act proposed section 46, which will give effect to the savings and transitional provisions contained in proposed Schedule 3A. (See Schedule 1 (25).)

Schedule 1 (23) inserts in the Principal Act proposed Schedule 1B, which sets out the terms of the proposed Albury-Wodonga Area Development Agreement Amendment Agreement (No. 2).

Schedule 1 (24) repeals and replaces Schedule 2 to the Principal Act. Proposed Schedule 2 contains fresh provisions relating to the constitution and procedure of the Albury-Wodonga (New South Wales) Corporation.

Schedule 1 (25) inserts in the Principal Act proposed Schedule 3A. The proposed Schedule contains savings and transitional provisions which, in the main, relate to the transfer of planning powers from the Albury-Wodonga Development Corporation to the Albury City Council and the Hume Shire Council.

Schedule 1 (26) repeals Schedule 4 to the Principal Act (Modification of the Environmental Planning and Assessment Act 1979). The Schedule will become redundant on the repeal of section 23 of the Principal Act. (See Schedule 1 (16).)



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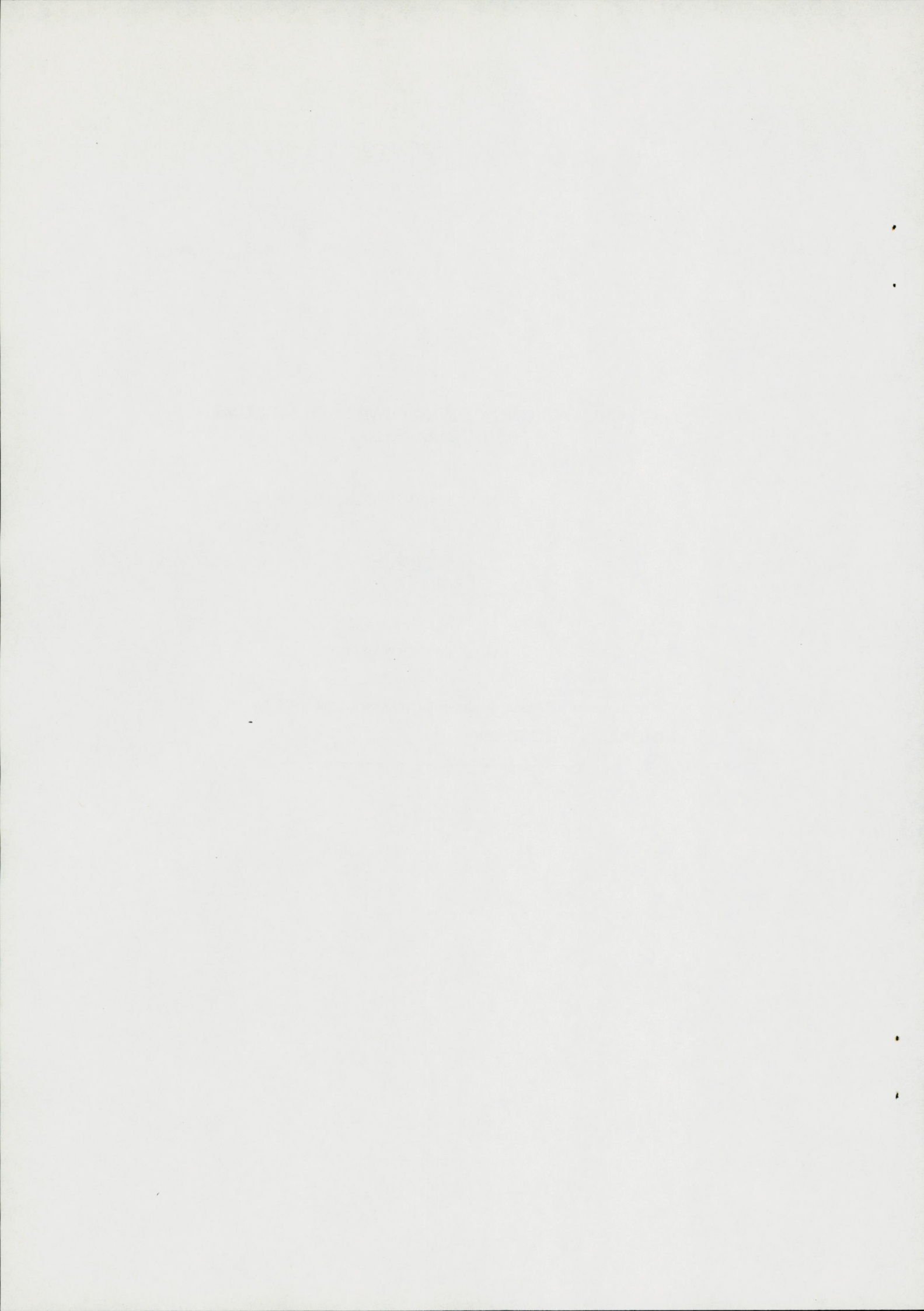
NEW SOUTH WALES



TABLE OF PROVISIONS

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SCHEDULE 1—AMENDMENTS



**ALBURY-WODONGA DEVELOPMENT (AMENDMENT)
BILL 1991**

NEW SOUTH WALES



No. , 1991

A BILL FOR

An Act to amend the Albury-Wodonga Development Act 1974 for the purposes of providing for the execution and approval of the proposed Albury-Wodonga Area Development Agreement Amendment Agreement (No. 2), changing the composition of the Albury-Wodonga (New South Wales) Corporation and transferring certain planning functions of the Albury-Wodonga Development Corporation to the councils of the relevant local government areas and for other purposes.

Albury-Wodonga Development (Amendment) 1991

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Albury-Wodonga Development (Amendment) Act 1991.

Commencement

2. (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).

(2) Sections 1 and 2, the provisions of Schedule 1 (4) and (23) and section 3, in its application to those provisions, commence on the date of assent to this Act.

(3) A proclamation must not appoint a day for the purposes of subsection (1) that is earlier than the day on which the proposed Albury-Wodonga Area Development Agreement Amendment Agreement (No. 2) is executed on behalf of the Commonwealth and the States of New South Wales and Victoria.

Amendment of Albury-Wodonga Development Act 1974 No. 47

3. The Albury-Wodonga Development Act 1974 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Long title:

Omit “responsibilities, powers, authorities, duties and”.

(2) Section 3 (**Division of Act**):

Omit the section.

(3) Section 4 (**Definitions**):

(a) Omit the definition of “Agreement”, insert instead:

“**Agreement**” means the Agreement referred to in section 5, as amended by the Agreements referred to in sections 5A and 5B;

(b) Omit the definition of “appointed member”, insert instead:

“**appointed member**” means a member other than the chief executive officer;

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SCHEDULE 1—AMENDMENTS—*continued*

- (c) Omit the definition of "Authority".
 - (d) Omit the definition of "Chairman", insert instead:
 - "**chairperson**" means the chairperson of the Corporation;
 - (e) Before the definition of "Corporation", insert:
 - "**chief executive officer**" means the chief executive officer of the Corporation;
 - (f) After the definition of "council", insert:
 - "**Department**" means the Department of Planning;
 - (g) Omit the definition of "Deputy Chairman", insert instead:
 - "**deputy chairperson**" means a deputy chairperson of the Corporation;
 - (h) Omit the definition of "executive member".
 - (i) In the definition of "officer of the Corporation", after "means", insert "the chief executive officer or".
 - (j) At the end of the section, insert:
 - (2) In this Act:
 - (a) a reference to a function includes a reference to a responsibility, power, authority and duty; and
 - (b) a reference to the exercise of a function includes, where the function is a responsibility or duty, a reference to the carrying out or performance of the responsibility or duty.
- (4) Section 5B:
- After section 5A, insert:
- Approval and execution of Amendment Agreement (No. 2)**
- 5B. (1) The Parliament authorises the Premier of New South Wales to execute, after the commencement of this section, on behalf of the State an agreement that is substantially in the form of agreement set out in Schedule 1B, or ratifies the execution by the Premier of such an agreement on behalf of the State before that commencement.
- (2) If (whether before or after the commencement of this section) an agreement that is substantially in accordance with the form of agreement set out in Schedule 1B has been or is

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SCHEDULE 1—AMENDMENTS—*continued*

executed by the Commonwealth and the States of New South Wales and Victoria, the Parliament approves the agreement.

- (5) Sections 6 (3), 7 (2), 16 (1), 18 (1) and 19:

Omit “responsibilities, powers, authorities, duties and” wherever occurring.

- (6) Section 6 (**The Corporation**):

From section 6 (4), omit “responsibility, power, authority, duty or”.

- (7) Sections 7, 7A:

Omit section 7, insert instead:

Membership of the Corporation

7. (1) The Corporation is to consist of 8 members of whom 7 are to be appointed members and the other is to be the chief executive officer.

- (2) Of the appointed members:

- (a) one is to be the chairperson of the Corporation, appointed on the recommendation of the Minister; and
- (b) one is to be a deputy chairperson of the Corporation appointed on the recommendation of the Victorian Minister; and
- (c) one is to be a deputy chairperson of the Corporation appointed on the recommendation of the Australian Minister; and
- (d) one is to be a person appointed on the recommendation of the Minister, with the concurrence of the Australian Minister, from a group of persons nominated on a basis to be determined from time to time by the Ministerial Council; and
- (e) one is to be a person appointed on the recommendation of the Minister, with the concurrence of the Australian Minister, from the Council of the City of Albury; and
- (f) one is to be a person appointed on the recommendations of the Minister and the Victorian Minister, with the concurrence of the Australian Minister, from a group of persons nominated on a basis

*Albury-Wodonga Development (Amendment) 1991*SCHEDULE 1—AMENDMENTS—*continued*

to be determined from time to time by the Ministerial Council; and

- (g) the other is to be a person appointed on the recommendations of the Minister and the Victorian Minister, with the concurrence of the Australian Minister, from the Council of the Rural City of Wodonga.

(3) The appointed members are to be appointed by the Governor.

(4) The chairperson is in all respects subject to the control and direction of the Minister in the exercise of the chairperson's functions.

(5) The person who is the chief executive officer of the Development Corporation is, by virtue of holding that office, the chief executive officer of the Corporation.

(6) Schedule 2 has effect with respect to the constitution and procedure of the Corporation.

Chief executive officer

7A. (1) The chief executive officer is responsible for the day-to-day management of the affairs of the Corporation, subject to and in accordance with any directions of the Corporation.

(2) The chief executive officer ceases to hold office as such if the person concerned ceases to be the chief executive officer of the Development Corporation.

- (8) Section 8 (**Corporation to comply with Agreement and directions of Ministerial Council**):

From section 8 (b), omit "of its functions, the exercise of its powers and its procedures", insert instead "and exercise of its functions".

- (9) Part 4, heading:

Omit the heading, insert instead:

PART 4—FUNCTIONS OF THE CORPORATION

- (10) Section 9 (**General functions of the Corporation**):

(a) From section 9 (1), omit "the responsibility of".

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SCHEDULE 1—AMENDMENTS—*continued*

- (b) From section 9 (2) (j), omit “powers”, insert instead “functions”.
- (c) After section 9 (3), insert:
- (4) The Corporation must comply with any comprehensive forward plan that has been approved by the Ministerial Council.
- (5) In subsection (4), “**comprehensive forward plan**” means a comprehensive forward plan prepared by the Development Corporation for the development of the growth complex.
- (11) Section 13 (**Dedication of land**):
- From section 13 (2), omit “Crown Lands Consolidation Act 1913”, insert instead “Crown Lands Act 1989”.
- (12) Section 17 (**Corporation may enter into arrangement with other public authorities**):
- Omit section 17 (2).
- (13) Section 20 (**Council functions may be transferred to the Corporation**):
- (a) From section 20 (1), omit “powers” where firstly occurring, insert instead “functions”.
- (b) From section 20 (1), omit “, authorities, duties and functions”.
- (c) From section 20 (3), omit “powers, authorities, duties and”.
- (d) From section 20 (8), omit “powers and authorities, or the carrying out of duties and”.
- (e) From section 20 (9), omit “power, authority, duty or” wherever occurring.
- (14) Section 21 (**Development Corporation to exercise functions under Agreement**):
- From section 21 (b), omit “powers and authorities”, insert instead “functions”.
- (15) Section 22:
- Omit the section, insert instead:

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SCHEDULE 1—AMENDMENTS—*continued*

Development Corporation may carry out investigations and studies etc.

22. Without limiting section 21, the Development Corporation may:

- (a) carry out investigations and studies; and
- (b) consult with authorities and bodies that are responsible for environmental planning within the Albury-Wodonga Area on any environmental planning matter; and
- (c) advise those authorities and bodies with respect to regional planning issues.

(16) Section 23 (**Environmental planning instruments**):

Omit the section.

(17) Section 34 (**Disputes between the Corporation and a council**):

From section 34 (1), omit "fulfilment and exercise of the Corporation's responsibilities, powers, authorities, duties, functions or privileges", insert instead "exercise of the Corporation's functions or privileges".

(18) Section 36 (**Misuse of information**):

(a) Omit section 36 (6) (b), insert instead:

(b) if the person is employed in the Government department known as Business and Consumer Affairs;

(b) Omit section 36 (6) (c).

(c) From section 36 (6) (e), omit "the Department of Decentralisation and Development, the Authority", insert instead "the Government department known as Business and Consumer Affairs".

(19) Section 39 (**Delegation**):

(a) From section 39 (1), omit "responsibilities, powers (other than this power of delegation), authorities, duties and functions", insert instead "functions (other than this power of delegation)".

(b) From section 39 (2), omit "responsibility, power, authority, duty or".

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SCHEDULE 1—AMENDMENTS—*continued*

- (c) From section 39 (3), omit “or performance of any of the responsibilities, powers, authorities, duties or”, insert instead “of any of the”.
- (d) From section 39 (4), omit “or perform all or any of the responsibilities, powers, authorities, duties or”, insert instead “all or any of the”.
- (20) Section 40 (**Annual report**):
 After section 40 (1), insert:
 (1A) Such a report may be prepared so that it forms part of a report jointly prepared by the Corporation, the Development Corporation and the Albury-Wodonga (Victoria) Corporation.
- (21) Section 43 (**Proceedings for offences**):
 From section 43 (1), omit “stipendiary magistrate or any two justices of the peace in petty sessions”, insert instead “Local Court constituted by a Magistrate sitting alone”.
- (22) Section 46:
 After section 45, insert:
Savings and transitional provisions
 46. Schedule 3A has effect.
- (23) Schedule 1B:
 After Schedule 1A, insert:

SCHEDULE 1B—ALBURY-WODONGA AREA DEVELOPMENT AGREEMENT AMENDMENT AGREEMENT (No. 2)

(Sec. 5B)

AN AGREEMENT (to be called the “Albury-Wodonga Area Development Agreement Amendment Agreement (No. 2)”) made this day of

One thousand
 nine hundred and BETWEEN THE
 COMMONWEALTH OF AUSTRALIA, THE STATE OF NEW SOUTH WALES, and THE STATE OF VICTORIA.

WHEREAS the Australian, New South Wales and Victorian Governments have agreed that certain amendments should be made to an agreement made between the parties on 23 October 1973 and called the “Albury-Wodonga Area Development Agreement”, as amended by an agreement made between the parties on 4 September 1978 and called the

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SCHEDULE 1—AMENDMENTS—*continued*

“Albury-Wodonga Area Development Agreement Amendment Agreement (No. 1)”, (hereinafter referred to as “the principal agreement”).

NOW IT IS HEREBY AGREED by and between the parties to this agreement as follows:

1. Unless the contrary intention appears, expressions used in this agreement have the same meanings as they have in the principal agreement.

2. This agreement, other than this clause, shall have no force or effect and shall not be binding on any of the parties unless and until it is approved by the Parliaments of Australia, the State of New South Wales and the State of Victoria, but upon being so approved by all of those Parliaments, it shall be of full force and effect and binding on the parties.

Definitions

3. Clause 1 of the principal agreement is amended by:

(a) deleting the definitions of:

‘Approved Albury-Wodonga Development Plan’;
‘Approved Financial Program’;
‘Mayor of the City of Albury’; and
‘Mayor of the Rural City of Wodonga’.

(b) inserting the following definition after the definition of ‘Australia’:

‘Comprehensive Forward Plan’ means a plan approved by the Ministerial Council in accordance with clause 9 hereof.

4. Sub-clause 2 (6) of the principal agreement is amended by:

(a) deleting paragraphs (a) and (b) and substituting the following paragraph:

“(a) to carry out investigations and studies, consult with planning authorities and bodies in or having responsibility for the Area and advise such authorities and bodies on regional planning issues; and”;

(b) altering the reference to paragraph (c) to paragraph (b).

Ministerial Council

5. Sub-clause 4 (2) of the principal agreement is amended by deleting paragraph (a) and substituting the following paragraph:

“(a) The members of the Ministerial Council will be the Australian Minister for Immigration, Local Government and Ethnic Affairs, the New South Wales Minister for Business and Consumer Affairs and the Victorian Minister for Manufacturing and Industry Development.”

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SCHEDULE 1—AMENDMENTS—*continued*

Development Corporation

6. Clause 5 of the principal agreement is deleted and the following clause substituted:

“5 (1) The Albury-Wodonga Development Corporation will be a corporation aggregate consisting of eight members, including an ex-officio member, who shall be the chief executive officer of the Development Corporation.

(2) The members, excepting the ex-officio member, will be appointed by the Governor-General, or the person who is at the date of the relevant appointment the person administering the Government of Australia, acting with the advice of the Federal Executive Council, and will hold office—

- (a) on such terms and conditions as are set out in the Australian Act; and
- (b) subject to that Act, on such other terms and conditions as are determined from time to time by the Ministerial Council.

(3) The Chairperson will be appointed on the recommendation of the Australian Minister and, subject to any provisions in the Australian Act concerning the Chairperson's removal from office, will hold office for such period, not exceeding three years, as is specified in the instrument of appointment and will be eligible for reappointment.

(4) There will be two Deputy Chairpersons each of whom will be appointed on the recommendation of the Australian Minister, one on the nomination of each State Minister and, subject to any provisions in the Australian Act concerning the Deputy Chairperson's removal from office, will hold office for such period, not exceeding three years, as is specified in the instrument of appointment and will be eligible for reappointment.

(5) Four of the members will be appointed on the recommendation of the Australian Minister and will comprise:

- (a) two members recommended by the New South Wales Minister with the concurrence of the Australian Minister, whether before or after the commencement of this sub-clause from the following persons:
 - (i) one from a group of persons nominated, on a basis to be determined from time to time by the Ministerial Council; and
 - (ii) one from the Council of the City of Albury;
- (b) two members recommended by the Victorian Minister with the concurrence of the Australian Minister, whether before or after the commencement of this sub-clause, from the following persons:

Albury-Wodonga Development (Amendment) 1991

SCHEDULE 1—AMENDMENTS—*continued*

(i) one from a group of persons nominated, on a basis to be determined from time to time by the Ministerial Council; and

(ii) one from the Council of the Rural City of Wodonga.

(6) A member appointed under sub-clause (5) of this clause will be appointed for a period, not exceeding three years, as is specified in the instrument of appointment.

(7) The ex-officio member will be responsible for the detailed day-to-day management and activities of the Development Corporation.

(8) The members will participate fully in meetings of the Development Corporation which they attend, but will not participate directly in the detailed day-to-day management and activities of the Development Corporation.

(9) A quorum of the Development Corporation shall be constituted by a majority of the members for the time being holding office, provided that the presence of the ex-officio member shall not be counted for the purpose of determining whether a quorum exists.

(10) In the absence of the Chairperson, a Deputy Chairperson will preside at meetings of the Development Corporation. Where the Chairperson is absent from such a meeting, the Deputy Chairperson to preside will be determined in accordance with the procedure determined for that purpose by the Development Corporation.

(11) Questions arising at a meeting of the Development Corporation will be determined by a majority of votes of the members present and voting, except that the ex-officio member shall not have a vote. Where there is an equality of votes, the Chairperson or the Deputy Chairperson, as the case may be, shall have a casting vote, as well as a deliberative vote.

(12) Subject to any directions given by the Ministerial Council, a member of the Development Corporation may request the Development Corporation to refer any matter with which the Development Corporation is concerned to the Ministerial Council for consideration and decision and the Development Corporation shall comply with such a request.

(13) Subject to this agreement, the functions of the Development Corporation will be to do all things necessary or convenient to be done for or in connexion with the development of the growth complex and, without limiting the generality of the foregoing, the Development Corporation may:

(a) carry out and supervise development works including—

(i) buildings and structures of all kinds;

(ii) gardens and plantations;

*Albury-Wodonga Development (Amendment) 1991*SCHEDULE 1—AMENDMENTS—*continued*

- (iii) roads and streets and associated lighting, parking areas, footpaths, guttering, ramps, and all things necessary for the control of traffic by vehicles, pedestrians and animals;
 - (iv) bridges and associated works;
 - (v) works for the supply and reticulation of water, electricity and gas;
 - (vi) sewerage, sewage treatment works and drainage works;
 - (vii) levees and river protection works;
 - (viii) wharves, jetties, marinas and ferries;
 - (ix) public amenities including baths, bathing areas and other areas for sport and recreation; and
 - (x) all other works for or incidental to the foregoing;
- (b) negotiate with Australian, State and Local Government authorities for the purpose of arranging or providing services and facilities in the growth complex;
 - (c) construct shops, offices and factories to be made available to a State Corporation for use on a commercial basis in conjunction with State authorities;
 - (d) create job opportunities by encouraging the setting up of industries and other investment in the growth complex;
 - (e) carry out other functions of a promotional character determined from time to time by the Ministerial Council.

(14) The Development Corporation shall, as far as possible, consult and have regard to the views of the relevant Australian and State officers, Departments and statutory bodies, Local Government bodies and community groups in relation to the development of the growth complex.

(15) Where such an officer or a Department or body has a discretion to determine a matter which relates to the development of the growth complex and agreement is not reached as a result of the consultations in relation to that matter, the matter may be referred by the Development Corporation through the Australian Minister or relevant State Minister, as the case requires, to the Ministerial Council to enable the Council to take such steps as are appropriate to resolve the matter.

(16) The Ministerial Council may give directions to the Development Corporation concerning the performance of its functions, the exercise of its powers and its procedure, and the Development Corporation shall comply with those directions."

State Corporations

7. Clause 7 of the principal agreement is deleted and the following clause substituted:

Albury-Wodonga Development (Amendment) 1991

SCHEDULE 1—AMENDMENTS—*continued*

“7 (1) There will be two State Corporations, namely—

- (a) the Albury-Wodonga (New South Wales) Corporation, constituted by an Act of the Parliament of the State of New South Wales; and
- (b) the Albury-Wodonga (Victoria) Corporation, constituted by an Act of the Parliament of the State of Victoria,

each of which will be a corporation aggregate consisting of eight members, including an ex-officio member, who shall be the chief executive officer of the Development Corporation.

(2) In the case of each State Corporation the members, excepting the ex-officio member, will be appointed by the Governor of the constituting State.

(3) In the case of each State Corporation:

- (a) the Chairperson will be appointed by the Governor of the State on the recommendation of the State Minister of the constituting State; and
- (b) each Deputy Chairperson will be appointed by the Governor of the State, one on the recommendation of the other State Minister and one on the recommendation of the Australian Minister.

(4) In the case of each State Corporation four of the members of each State Corporation will be appointed on the recommendation of the State Minister of the constituting State and will comprise:

- (a) two members recommended by the New South Wales Minister with the concurrence of the Australian Minister, whether before or after the commencement of this sub-clause, from the following persons:
 - (i) one from a group of persons nominated, on a basis to be determined from time to time by the Ministerial Council; and
 - (ii) one from the Council of the City of Albury.
- (b) two members recommended by the Victorian Minister with the concurrence of the Australian Minister, whether before or after the commencement of this sub-clause, from the following persons:
 - (i) one from a group of persons nominated, on a basis to be determined from time to time by the Ministerial Council; and
 - (ii) one from the Council of the Rural City of Wodonga.

(5) The Chairperson shall be subject in all respects to the control and direction of the relevant State Minister in the exercise and discharge of his responsibilities, powers, authorities, duties and functions.

Albury-Wodonga Development (Amendment) 1991

SCHEDULE 1—AMENDMENTS—*continued*

(6) Each member, except the ex-officio member, will hold office for such period, not exceeding three years, as is specified in the instrument of appointment:

- (a) on such terms and conditions as are set out in the relevant Act of the constituting State; and
- (b) subject to that Act, on such other terms and conditions as are determined from time to time by the Ministerial Council.

(7) A quorum of a State Corporation shall be constituted by a majority of the members for the time being holding office provided that the presence of the ex-officio member shall not be counted for the purpose of determining whether a quorum exists.

(8) In the absence of the Chairperson, a Deputy Chairperson shall preside at meetings of a State Corporation. Where the Chairperson is absent from such a meeting, the Deputy Chairperson to preside will be determined in accordance with principles agreed to by the State Corporation.

(9) Questions arising at a meeting of a State Corporation will be determined by a majority of votes of the members present and voting, except the ex-officio member shall not have a vote. Where there is an equality of votes, the Chairperson or presiding Deputy Chairperson, as the case may be, shall have a casting vote, as well as a deliberative vote.

(10) The Ministerial Council may give directions to a State Corporation concerning the performance of its functions and the exercise of its powers and its procedures, and the State Corporation shall comply with those directions.

(11) In this clause, "the constituting State" means the State by the Act of whose Parliament the relevant State Corporation was constituted.

(12) In this clause, the reference to the Governor is a reference—

- (a) in the case of the State of New South Wales, to the person who is, at the date of the relevant appointment, the Governor of that State, or the person lawfully administering the Government of New South Wales, acting with the advice of the Executive Council of that State; and
- (b) in the case of the State of Victoria, to the person who is, at the date of the relevant appointment, administering the Government of Victoria with the advice of the Executive Council of that State."

8. Clause 9 of the principal agreement and its heading are deleted and the following clause and heading are substituted:

"Comprehensive Forward Plan

9. (1) The Development Corporation shall prepare and submit for approval by the Ministerial Council each year, by a date determined by the Ministerial Council, a Comprehensive Forward Plan for the

*Albury-Wodonga Development (Amendment) 1991***SCHEDULE 1—AMENDMENTS—*continued***

development of the growth complex for the period to which it relates in a form, and having the content, specified by the Ministerial Council from time to time.

(2) The Ministerial Council may amend a Comprehensive Forward Plan, after consultation with the Development Corporation and the State Corporations.

(3) The Development Corporation and each State Corporation shall comply with any Comprehensive Forward Plan approved by the Ministerial Council."

9. Clause 10 of the principal agreement and its heading are deleted and the following clause and heading are substituted:

"Revenues and Expenses of Corporations

10. All revenues of whatsoever nature payable to each State Corporation, including those payable in respect of land, buildings and other assets or works vested in the State Corporation, shall be paid to the Development Corporation, which shall meet all expenditure, approved by the Ministerial Council, for and on behalf of each State Corporation in relation to the growth complex."

10. Clause 12 of the principal agreement is deleted and clause 13 is renumbered clause 12.

(24) Schedule 2:

Omit Schedule 2, insert instead:

**SCHEDULE 2—PROVISIONS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE CORPORATION**

(Sec. 7 (6))

PART 1—CONSTITUTION

Term of office of appointed members

1. An appointed member is to be appointed for such term, not exceeding 3 years, as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Terms and conditions of appointment of appointed members

2. An appointed member holds office:

- (a) on such terms and conditions (including terms and conditions as to remuneration and travelling and subsistence allowances) as are specified in the member's instrument of appointment; and
- (b) on such other terms and conditions (not inconsistent with those referred to in paragraph (a)) as the Ministerial Council determines in respect of the member from time to time.

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SCHEDULE 1—AMENDMENTS—*continued*

Vacation of office

3. (1) The office of an appointed member becomes vacated if the member:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Governor; or
- (d) ceases to hold an office or qualification that it was necessary for the member to hold in order to be appointed; or
- (e) is removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or
- (f) is absent, except on leave granted by the Corporation (which leave the Corporation is authorised to grant), from 3 consecutive meetings of the Corporation; or
- (g) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (h) becomes a mentally incapacitated person; or
- (i) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable; or
- (j) in the case of an appointed member who holds office as the chairperson or a deputy chairperson, ceases to hold that office.

(2) The Governor may remove an appointed member from office at any time.

Filling of vacancy in office of appointed member

4. If the office of an appointed member of the Board becomes vacant, a person is, subject to this Act, required to be appointed to fill the vacancy.

Vacation of office by chairperson or deputy chairperson

5. (1) The office of chairperson or deputy chairperson becomes vacant if the chairperson or deputy chairperson:

- (a) resigns the office by instrument in writing addressed to the Governor; or
- (b) is removed from office by the Governor under this clause; or
- (c) ceases to be an appointed member.

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SCHEDULE 1—AMENDMENTS—*continued*

(2) The Governor may remove the chairperson or a deputy chairperson from office at any time.

Effect of certain other Acts

6. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of an appointed member.

(2) If by or under any Act provision is made:

- (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
- (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as such a member.

(3) The office of an appointed member is not, for the purposes of any Act, an office or place of profit under the Crown.

Acting members

7. (1) If:

- (a) an appointed member is unable, because of illness or absence or for any other reason, to perform the duties of the member's office; or
- (b) there is a vacancy in the office of an appointed member,

the Governor may appoint a person to act in the office of the appointed member during the inability of the member or pending the filling of the vacancy.

(2) If:

- (a) the chairperson or a deputy chairperson is unable, because of illness or absence or for any other reason, to perform the duties of the office of chairperson or deputy chairperson; or
- (b) there is a vacancy in the office of chairperson or a deputy chairperson,

the Governor may appoint another appointed member to act in the office of the chairperson or deputy chairperson during the inability of the chairperson or deputy chairperson or pending the filling of the vacancy.

(3) A person appointed under subclause (1) or (2), while so appointed, has all the functions of the appointed member concerned or, as the case may be, the chairperson or the deputy chairperson concerned and is to be taken to be an appointed member or the chairperson or a deputy chairperson.

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SCHEDULE 1—AMENDMENTS—*continued*

(4) The Governor may remove any person from any office to which the person was appointed under this clause.

(5) If:

(a) a person has been appointed under this clause to act as an appointed member; and

(b) the appointed member ceases to hold office without having resumed office,

the period of appointment of the person so appointed continues until the Governor terminates it or for 12 months from the date on which the appointed member ceased to hold office, whichever first happens.

(6) A person holds office as an acting appointed member on such terms and conditions (including terms and conditions as to remuneration and travelling and subsistence allowances) as the Ministerial Council determines in respect of the person from time to time.

Minutes

8. The Corporation must cause full and accurate minutes to be kept of its proceedings at meetings and submit to the Minister a copy of the minutes of each meeting within 1 week after the date on which the meeting is held.

Committees etc.

9. (1) The Corporation may establish one or more committees or sub-committees to assist it in connection with the exercise of its functions.

(2) A person may be appointed to any such committee or sub-committee whether or not he or she is a member of the Corporation.

(3) The office of member of any such committee or sub-committee is not, for the purposes of any Act, to be taken to be an office or place of profit under the Crown.

(4) The procedure for the calling of meetings of a committee or sub-committee and for the conduct of business at those meetings is to be decided by the Corporation or (subject to any decision of the Corporation) by the committee or sub-committee.

Liability of members etc.

10. A matter or thing done by the Corporation, a member or any person acting under the direction of the Corporation does not subject a member or such a person personally to any action, liability, claim or demand if the matter or thing was done in good faith for the purposes of executing:

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SCHEDULE 1—AMENDMENTS—*continued*

- (a) this Act; or
- (b) any other Act; or
- (c) any Act of the Commonwealth or Victoria for the time being declared under section 6 (4) to be an enactment to which section 6 (3) applies or any part of such an Act.

Proof of certain matters not required

11. In any legal proceedings, proof is not required (until evidence is given to the contrary) of:

- (a) the constitution of the Corporation; or
- (b) any resolution of the Corporation; or
- (c) the appointment of, or holding of office by, any member; or
- (d) the presence or nature of a quorum at any meeting of the Corporation.

Validity of certain actions

12. (1) No person is to be concerned to inquire whether or not the occasion has arisen requiring or authorising a person to act as an appointed member, or to act in the place of the chairperson or a deputy chairperson, in accordance with clause 7 or 15 (2).

(2) All things done or omitted to be done by a person while acting as an appointed member or as the chairperson or a deputy chairperson are as valid and effectual and are to have the same consequences as if they had been done or omitted to be done by the member or chairperson or, as the case may be, by the deputy chairperson concerned.

PART 2—PROCEDURE FOR CALLING AND HOLDING MEETINGS OF THE CORPORATION

General procedure

13. The procedure for the calling of meetings of the Corporation and for the conduct of business at those meetings is, subject to this Act, to be as decided by the Corporation.

Quorum

14. The quorum for a meeting of the Corporation is a majority of the members for the time being, other than the chief executive officer.

Presiding member

15. (1) The chairperson must preside at all meetings of the Corporation at which the chairperson is present.

(2) If the chairperson is not present at a meeting of the Corporation, the deputy chairperson selected in accordance with the procedure prescribed for the purpose by the Corporation is to preside at the meeting.

(3) The person presiding at a meeting of the Corporation has a deliberative vote and, in the event of an equality of votes, has a casting vote.

*Albury-Wodonga Development (Amendment) 1991*SCHEDULE 1—AMENDMENTS—*continued***Voting**

16. (1) The chief executive officer is not entitled to vote at a meeting of the Corporation but is entitled to attend and speak at the meeting.

(2) A decision supported by a majority of the votes cast by appointed members at a meeting of the Corporation at which a quorum is present is a decision of the Corporation.

Transaction of business outside meetings or by telephone etc.

17. (1) The Corporation may, if it thinks fit, transact any of its business by the circulation of papers among the members and a resolution in writing approved in writing by a majority of the appointed members is to be taken to be a decision of the Corporation.

(2) The Corporation 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 a member who speaks on a matter being considered at the meeting can be heard by each of the other members.

(3) For the purposes of:

(a) the approval of a resolution under subclause (1); or

(b) a meeting held in accordance with subclause (2),

the chairperson and each of the other appointed members have the same voting rights as they have at an ordinary meeting of the Corporation.

(4) A resolution approved under subclause (1) is to be recorded in the minutes of the meetings of the Corporation.

(5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile machine or other method capable of transmitting the information in those papers.

(25) Schedule 3A:

After Schedule 3, insert:

SCHEDULE 3A—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 46)

PART 1—PRELIMINARY**Definitions**

1. (1) In this Schedule:

“EPA Act” means the Environmental Planning and Assessment Act 1979;

“relevant council” means:

(a) in relation to land situated within the City of Albury—the Albury City Council; and

Albury-Wodonga Development (Amendment) 1991

SCHEDULE 1—AMENDMENTS—*continued*

(b) in relation to land situated within the Shire of Hume—the Hume Shire Council;

“relevant day” means the day on which Schedule 1 (16) to the Albury-Wodonga Development (Amendment) Act 1991 commences.

(2) Expressions used in this Schedule that are defined in section 4 of the EPA Act have the meanings so defined.

Savings and transitional regulations

2. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the Albury-Wodonga Development (Amendment) Act 1991.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.

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

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

(4) The regulations may provide for:

- (a) the transfer of unspent funds, paid to the Development Corporation as monetary contributions under section 94 of the EPA Act, to the relevant council; and
- (b) the relevant council to hold the funds in trust for the purpose for which the payment was required by that Corporation.

**PART 2—PROVISIONS CONSEQUENT ON THE
ENACTMENT OF THE ALBURY-WODONGA
DEVELOPMENT (AMENDMENT) ACT 1991**

Existing members of the Corporation

3. (1) Any person who was, immediately before the commencement of Schedule 1 (7) to the Albury-Wodonga Development (Amendment) Act 1991, holding office as the Chairman or a Deputy Chairman of the Corporation or as a part-time official member under section 7 (1) (c) (i) or (ii) (as in force immediately before that commencement) is taken to have been appointed, for the balance of the person's term of office, to the office of chairperson, deputy chairperson or appointed member referred to in section 7 (2) (e) or (f), as the case requires.

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SCHEDULE 1—AMENDMENTS—*continued*

(2) A person referred to in subsection (1) holds office subject to this Act, on and after the commencement of Schedule 1 (7) of the Albury-Wodonga Development (Amendment) Act 1991, on the same terms and conditions as were applicable to the person immediately before that day.

Functions of relevant council with respect to pending development applications

4. If the Development Corporation has not, before the relevant day, determined a development application that was made to it before that day, the relevant council is to determine the application.

Functions of relevant council with respect to development consents granted by the Development Corporation

5. (1) In relation to any development consent granted by the Development Corporation before the relevant day:

- (a) the consent is taken to have been granted by the relevant council; and
- (b) the relevant council has the same functions that the Development Corporation would have had but for the enactment of the Albury-Wodonga Development (Amendment) Act 1991.

(2) In subclause (1), "consent" includes a consent granted subject to a condition.

Liabilities of Development Corporation

6. (1) Despite clause 5, the Development Corporation is liable for any act done or omitted to be done in the purported exercise of its functions under the EPA Act before the relevant day.

(2) Without limiting subclause (1), the Development Corporation is liable to indemnify the relevant council in respect of any matter arising from the granting by that Corporation of a development consent that that council is taken to have granted by virtue of clause 5, and is so liable even though the matter arose on or after the relevant day.

Appeals lodged in respect of determinations of the Development Corporation

7. In relation to a determination of the Development Corporation under the EPA Act, the relevant council has, on and after the relevant day, the same functions under section 97 (Appeal by an applicant) and section 98 (Appeal by an objector) of that Act as the Development Corporation had before that day.

Development control plans

8. (1) Any development control plan made by the Development Corporation that has not been repealed before the relevant day is taken to have been prepared by the relevant council in so far as it relates to land within that council's local government area.

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SCHEDULE 1—AMENDMENTS—*continued*

(2) Any reference in such a plan to the Development Corporation is to be treated as a reference to the relevant council.

(26) Schedule 4 (**Modification of the Environmental Planning and Assessment Act 1979**):

Omit the Schedule.
