

FIRST PRINT

**GROWTH CENTRES (DEVELOPMENT CORPORATIONS)
AMENDMENT BILL 1992**

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 Growth Centres (Development Corporations) Act 1974:

- (a) to dissolve the Bathurst-Orange Development Corporation and the Macarthur Development Corporation; and
- (b) to provide for the future dissolution of development corporations by order of the Governor on the recommendation of the Minister; and
- (c) to constitute a Ministerial Development Corporation for the purposes of managing and disposing of the remaining assets, rights and liabilities of dissolved development corporations; and
- (d) to make it clear that development corporations may be established in connection with urban areas as well as rural areas; and
- (e) to provide for the Managing Director of the Property Services Group to be a member and the chief executive of each development corporation constituted under the Act instead of there being a full-time General Manager appointed for each such corporation; and
- (f) to replace the existing investment and borrowing powers provisions applying to corporations under the Act with the standard investment and borrowing provisions for statutory authorities (i.e. under the Public Authorities (Financial Arrangements) Act 1987); and
- (g) to replace the provisions relating to compulsory acquisition of land with the standard provisions applicable under the Land Acquisition (Just Terms Compensation) Act 1991; and
- (h) to remove the provisions enabling a development corporation to exercise certain planning and other powers of a local council; and
- (i) to make other miscellaneous changes.

Growth Centres (Development Corporations) Amendment 1992

Each amendment is explained in detail in the Bill in the explanatory note relating to the amendment concerned.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 gives effect to the Schedule of amendments to the Growth Centres (Development Corporations) Act 1974.

Clause 4 gives effect to the Schedule of consequential amendments to certain other Acts.

Clause 5 repeals the Growth Centres (Land Acquisition) Act 1974 which relates to the compensation payable in connection with the resumption of land in growth centres. The Act has ceased to apply to existing development corporations.

Clause 6 states that the explanatory matter contained in the Bill does not form part of the Bill.

Schedule 1 contains the amendments referred to above.

Schedule 2 makes consequential amendments to certain other Acts.

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AMENDMENT BILL 1992**

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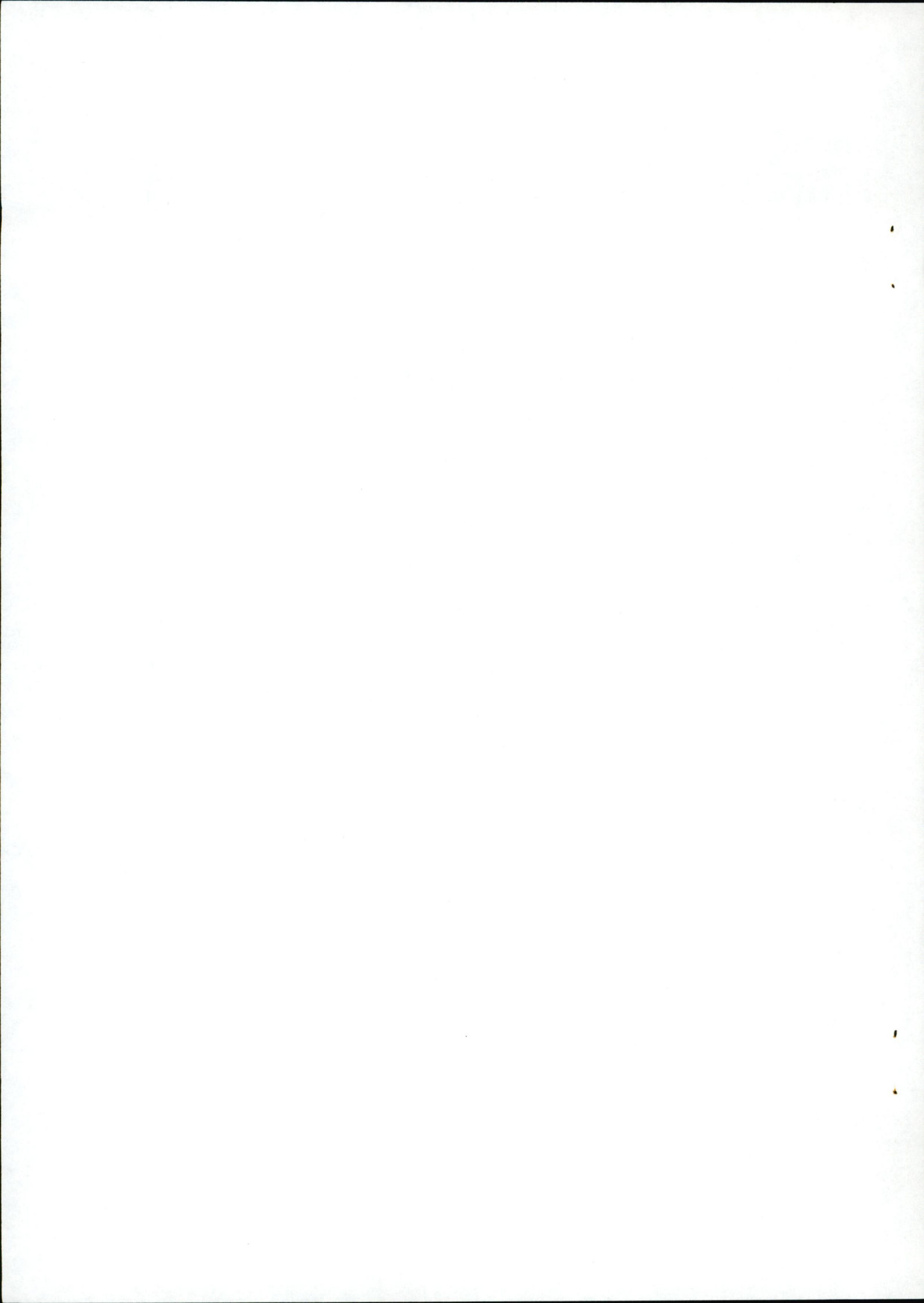


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SCHEDULE 1—AMENDMENT OF GROWTH CENTRES (DEVELOPMENT
CORPORATIONS) ACT 1974

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER ACTS



**GROWTH CENTRES (DEVELOPMENT CORPORATIONS)
AMENDMENT BILL 1992**

NEW SOUTH WALES



No. , 1992

A BILL FOR

An Act to amend the Growth Centres (Development Corporations) Act 1974 to constitute a Ministerial Development Corporation, to dissolve the Bathurst-Orange and Macarthur Development Corporations and to provide for the transfer of the remaining assets and liabilities of those corporations to the Ministerial Development Corporation; to repeal the Growth Centres (Land Acquisition) Act 1974; and for other purposes.

Growth Centres (Development Corporations) Amendment 1992

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Growth Centres (Development Corporations) Amendment Act 1992.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

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

3. The Growth Centres (Development Corporations) Act 1974 is amended as set out in Schedule 1.

Consequential amendment of other Acts

4. The Acts specified in Schedule 2 are amended as set out in that Schedule.

Repeal of Growth Centres (Land Acquisition) Act 1974 No. 1

5. The Growth Centres (Land Acquisition) Act 1974 is repealed.

Explanatory notes

6. Matter appearing under the heading "Explanatory note" in Schedule 1 does not form part of this Act.

**SCHEDULE 1—AMENDMENT OF GROWTH CENTRES
(DEVELOPMENT CORPORATIONS) ACT 1974**

(Sec. 3)

(1) Section 3 (**Definitions**):

- (a) From section 3 (1), omit the definitions of "Authority", "Director", "General Manager", "Macarthur Development Corporation" and "Macarthur Growth Area".
- (b) From the definition of "corporation" in section 3 (1), omit "or the Macarthur Development Corporation", insert instead "or the Ministerial Development Corporation".

SCHEDULE 1—AMENDMENT OF GROWTH CENTRES
(DEVELOPMENT CORPORATIONS) ACT 1974—*continued*

(c) Insert, in section 3 (1), in alphabetical order:

“**Managing Director**” means the Managing Director of the Property Services Group;

“**Ministerial Development Corporation**” means the Ministerial Development Corporation constituted by Part 3A;

(d) At the end of the definition of “member” in section 3 (1), insert “, and includes the Managing Director”.

(e) Omit section 3 (2) (b).

Explanatory note

The amendments in item (1) are consequential on the dissolution of the Macarthur Development Corporation, the constitution of the new Ministerial Development Corporation and the removal of General Managers as members of development corporations.

(2) Section 5 (**Orders**):

After section 5 (2), insert:

(2A) A development corporation may be constituted in respect of a growth area within any area (including, but not limited to, an urban area or a rural area).

Explanatory note

The amendment in item (2) makes it clear that the growth centre in respect of which a development corporation is constituted may be in an urban area as well as a rural area.

(3) Section 6 (**Provisions relating to constitution and procedure of development corporation**):

(a) Omit section 6 (1) (b), insert instead:

(b) the Managing Director.

(b) After section 6 (1), insert:

(1A) The Managing Director is responsible, as the chief executive of a development corporation, for managing the affairs of the development corporation subject to and in accordance with any directions given to the Managing Director by the development corporation.

Growth Centres (Development Corporations) Amendment 1992

SCHEDULE 1—AMENDMENT OF GROWTH CENTRES
(DEVELOPMENT CORPORATIONS) ACT 1974—*continued*

Explanatory note

The amendments in item (3) provide for the Managing Director of the Property Services Group to be an “ex officio” member of a development corporation and to manage the affairs of the development corporation. At present, a development corporation consists of not fewer than 4 persons appointed by the Governor and a full-time General Manager for each corporation.

(4) Section 8 (**General powers of development corporation**):

- (a) From section 8 (1), omit “Subject to this Act”, insert instead “Subject to this Act, the Environmental Planning and Assessment Act 1979 and any other relevant Act”.
- (b) Omit section 8 (1) (c) and (2).

Explanatory note

The amendments in item (4) make it clear that development corporations, when exercising their powers under the Act, are subject to the usual procedures relating to the carrying out of development as provided in relevant legislation (in particular, the Environmental Planning and Assessment Act 1979).

(5) Sections 9 and 10:

Omit the sections, insert instead:

Power to acquire land etc.

9. (1) A development corporation may, for the purposes of this Act, acquire land by agreement or by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.

(2) Without limiting the generality of subsection (1), a development corporation may, in accordance with that subsection, acquire:

- (a) any land within the growth centre in respect of which the development corporation was constituted which the corporation considers should be made available in the public interest or any purpose of the growth centre; or
- (b) any land of which the land proposed to be acquired under this Act forms part; or
- (c) any land adjoining or in the vicinity of any land proposed to be acquired under this Act; or
- (d) a leasehold or any other interest in land.

Growth Centres (Development Corporations) Amendment 1992

SCHEDULE 1—AMENDMENT OF GROWTH CENTRES
(DEVELOPMENT CORPORATIONS) ACT 1974—*continued*

Application of Public Works Act 1912

10. (1) For the purposes of the Public Works Act 1912, any acquisition of land under section 9 is taken to be for an authorised work and the development corporation is, in relation to that authorised work, taken to be the Constructing Authority.

(2) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not apply in respect of works constructed under this Act.

Explanatory note

The amendment in item (5) replaces the provisions relating to compulsory acquisition of land with the standard provisions applicable under the Land Acquisition (Just Terms Compensation) Act 1991.

(6) **Section 13 (Covenants in leases):**

Omit section 13 (3).

Explanatory note

The amendment in item (6) is consequential on the amendment in item (4) which provides that development corporations are subject to relevant legislation and that the provisions of the Act should not override the operation of other relevant legislation.

(7) **Section 19 (Development corporation may enter into arrangements with other public authorities):**

Omit section 19 (2).

(8) **Sections 23 (Exercise of council's powers by development corporation), 31 (Environmental planning instruments):**

Omit the sections.

Explanatory note

The amendment in item (7) removes an obsolete provision relating to the State Planning Authority (which no longer exists) acting on behalf of a development corporation in carrying out legal or other work in connection with the powers etc. of the corporation.

The amendments in item (8) omit provisions enabling a development corporation to exercise certain planning and other powers of a local council and providing for the Minister for Planning to determine any differences between a corporation and a local council (such differences could arise as a result of a

**SCHEDULE 1—AMENDMENT OF GROWTH CENTRES
(DEVELOPMENT CORPORATIONS) ACT 1974—*continued***

requirement under an environmental planning instrument for the council to consult with the corporation concerned before granting development consent in certain cases). As a result of the proposed repeal of sections 23 and 31, development corporations will be subject to the Environmental Planning and Assessment Act 1979 in the exercise of their powers.

(9) Part 3A:

Omit the Part, insert instead:

**PART 3A—DISSOLUTION OF
DEVELOPMENT CORPORATIONS**

Division 1—Definitions

Definitions

23A. In this Part:

“**assets**” means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents;

“**dissolved development corporation**” means a development corporation which is dissolved under this Part;

“**instrument**” means an instrument (other than this Act) which creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order and process of a court;

“**liabilities**” means all liabilities, debts and obligations (whether present or future and whether vested or contingent).

**Division 2—Dissolution of development
corporations**

**Dissolution of Bathurst-Orange and Macarthur
Development Corporations**

23B. The Bathurst-Orange Development Corporation and the Macarthur Development Corporation are dissolved.

SCHEDULE 1—AMENDMENT OF GROWTH CENTRES
(DEVELOPMENT CORPORATIONS) ACT 1974—*continued*

Governor may dissolve development corporations

23C. (1) The Governor may, on the recommendation of the Minister, by order published in the Gazette:

- (a) dissolve a development corporation; and
- (b) amend Schedule 1 by omitting any Part which relates to the dissolved development corporation.

(2) Any such order takes effect on and from the date of publication of the order or a later date specified in the order.

(3) The Minister is not to make such a recommendation to the Governor unless the Minister is satisfied that the development corporation concerned has substantially completed its planning and development functions in respect of the growth centre for which it was constituted.

(4) Nothing in this section affects section 5.

Transfer of assets etc.

23D. (1) On the commencement of section 23B or on an order under section 23C taking effect, the assets, rights and liabilities (if any) of the dissolved development corporation are transferred to the Ministerial Development Corporation.

(2) On such a transfer, the following provisions have effect:

- (a) the assets of the dissolved development corporation vest in the Ministerial Development Corporation by virtue of this section and without the need for any conveyance, transfer, assignment or assurance;
- (b) the rights and liabilities of the dissolved development corporation become by virtue of this section the rights and liabilities of the Ministerial Development Corporation;
- (c) all proceedings commenced before the transfer by or against the dissolved development corporation and pending immediately before the transfer are taken to be proceedings pending by or against the Ministerial Development Corporation;
- (d) any act, matter or thing done or omitted to be done before the transfer by, to or in respect of the dissolved development corporation is (to the extent that that act,

**SCHEDULE 1—AMENDMENT OF GROWTH CENTRES
(DEVELOPMENT CORPORATIONS) ACT 1974—*continued***

matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Ministerial Development Corporation;

(e) a reference in an instrument of any kind to the dissolved development corporation is to be read as a reference to the Ministerial Development Corporation.

(3) The operation of this section is not to be regarded:

(a) as a breach of contract or confidence or otherwise as a civil wrong; or

(b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities; or

(c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.

(4) The operation of this section is not to be regarded as an event of default under any contract or other agreement.

(5) No attornment to the Ministerial Development Corporation by a lessee from the dissolved development corporation is required.

(6) Any instrument executed only for:

(a) a purpose ancillary to or consequential on the operation of this section; or

(b) the purpose of giving effect to this section,

is not chargeable with stamp duty.

**Division 3—Establishment of Ministerial
Development Corporation**

Establishment of Ministerial Development Corporation

23E. (1) There is constituted by this Act a body corporate with the corporate name of the Ministerial Development Corporation.

(2) The affairs of the Ministerial Development Corporation are to be managed by the Minister.

(3) Any act, matter or thing done in the name of, or on behalf of, the Ministerial Development Corporation by the

SCHEDULE 1—AMENDMENT OF GROWTH CENTRES
(DEVELOPMENT CORPORATIONS) ACT 1974—*continued*

Minister, or with the authority of the Minister, is taken to have been done by the Ministerial Development Corporation.

Functions of Ministerial Development Corporation

23F. (1) The Ministerial Development Corporation is responsible for the management and disposal of the remaining assets, rights and liabilities of a dissolved development corporation.

(2) Without limiting the generality of subsection (1), the Ministerial Development Corporation, for the purposes of that subsection:

(a) has, in relation to the assets, rights and liabilities of the dissolved development corporation that are transferred to it, the same powers, authorities and functions of that development corporation under sections 8–13, 18, 19 and 21; and

(b) may, with the concurrence of the Treasurer, transfer any of its assets, rights and liabilities to the Crown or to any other person on behalf of the Crown.

(3) The Ministerial Development Corporation has such other functions as may be conferred or imposed on it by or under this or any other Act.

Explanatory note

The amendment in item (9) replaces Part 3A (which presently contains provisions dealing with the Macarthur Development Corporation) with a new Part dealing with the dissolution of development corporations.

Proposed section 23A contains definitions for the purposes of the new Part.

Proposed section 23B dissolves the Bathurst-Orange and Macarthur Development Corporations and proposed section 23C enables the Governor (on the recommendation of the Minister) to dissolve future development corporations by order published in the Gazette.

Proposed section 23D transfers the assets, rights and liabilities of a dissolved development corporation to the Ministerial Development Corporation. Instruments connected with the transfer of such assets, rights and liabilities are exempt from stamp duty.

Proposed section 23E constitutes the Ministerial Development Corporation. Its affairs are to be managed by the Minister.

Growth Centres (Development Corporations) Amendment 1992

SCHEDULE 1—AMENDMENT OF GROWTH CENTRES
(DEVELOPMENT CORPORATIONS) ACT 1974—*continued*

Proposed section 23F provides that the Ministerial Development Corporation will have the function of managing and disposing of the remaining assets, rights and liabilities of dissolved development corporations that are transferred to it under Division 2 of the new Part.

(10) Section 27:

Omit sections 27–29A, insert instead:

Investments

27. A corporation may invest money held by it:

- (a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or
- (b) if that Act does not confer power to invest money so held, in any manner authorised for the time being for the investment of trust funds and in any other manner approved by the Minister with the concurrence of the Treasurer.

Explanatory note

The amendment in item (10) replaces provisions relating to investment of money by corporations under the Act, arranging temporary accommodation and borrowing powers with the standard investment provision enabling a development corporation or the Ministerial Development Corporation to invest money under the Public Authorities (Financial Arrangements) Act 1987. As an “authority” for the purposes of that Act, such a corporation will also be able to arrange for financial accommodation (i.e. borrowing) in the same way as the Bathurst-Orange and Macarthur Development Corporations can at present.

(11) Section 32 (**Disputes**):

Omit section 32 (1), insert instead:

- (1) In this section, “**corporation**” does not include the Ministerial Development Corporation.

Explanatory note

The amendment in item (11) provides that the provisions concerning the resolution by the Minister of disputes arising between a corporation and a local council under the Act do not apply to the Ministerial Development Corporation.

(12) Section 33 (**Misuse of information**):

- (a) Omit section 33 (6) (ai), (b) and (c), insert instead:
- (b) if the person is an officer or employee of the Property Services Group;

Growth Centres (Development Corporations) Amendment 1992

**SCHEDULE 1—AMENDMENT OF GROWTH CENTRES
(DEVELOPMENT CORPORATIONS) ACT 1974—*continued***

- (b) From section 33 (6) (e), omit “Department of Decentralisation, the Authority”, insert instead “Property Services Group”.
- (13) Section 34 (**Disclosure of interest**):
- (a) From section 34 (1) and (9), omit “or of the Macarthur Development Corporation” wherever occurring.
- (b) From section 34 (8), omit “or of the Macarthur Development Corporation, as the case may be,”.
- (c) From section 34 (11), omit “or the Macarthur Growth Area”.
- (d) Omit section 34 (12).
- (14) Sections 37 (**Annual report**), 39 (**Authentication of process**):
Omit the sections.

Explanatory note

The amendments in items (12) and (13) are consequential.

The amendment in item (14) omits unnecessary provisions which are covered by other legislation dealing with statutory corporations (i.e. the Annual Reports (Statutory Bodies) Act 1984 and the Interpretation Act 1987).

- (15) Schedule 1 (**Growth Centres**):
Omit Part 1.
- (16) Schedule 1A (**Macarthur Growth Area**):
Omit the Schedule.

Explanatory note

The amendments in items (15) and (16) omit the descriptions of the Bathurst-Orange and Macarthur Growth Centres contained in the Act.

- (17) Schedule 2 (**Provisions relating to the constitution and procedure of development corporations**):
- (a) Omit clauses 1 (2), 4 (1) and 7 (2).
- (b) From clauses 3 (2), 4 (2), 5, 7 (1), 9 (2) and 10 (4), omit “General Manager” wherever occurring, insert instead “Managing Director”.

Growth Centres (Development Corporations) Amendment 1992

**SCHEDULE 1—AMENDMENT OF GROWTH CENTRES
(DEVELOPMENT CORPORATIONS) ACT 1974—*continued***

- (c) From clause 4 (3), omit “(other than the office of General Manager)”.
- (d) From clause 4 (4), omit “(other than the office of the General Manager)”.

Explanatory note

The amendments in item (17) are consequential on the amendment which replaces the General Managers of development corporations with the Managing Director of the Property Services Group.

- (18) **Schedule 3 (Modification of Public Works Act 1912):**
Omit the Schedule.
- (19) **Schedule 4 (Provisions relating to loans):**
Omit the Schedule.
- (20) **Schedule 5 (Modification of the Environmental Planning and Assessment Act 1979):**
Omit the Schedule.

Explanatory note

The amendments in items (18)–(20) are consequential.

- (21) **Schedule 6 (Savings, transitional and other provisions):**
 - (a) Omit clause 1, insert instead:
References to General Manager
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 as a reference to the Managing Director.
 - (b) Omit clause 2 (2).
 - (c) After clause 2, insert:
Savings and transitional regulations
3. The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the Growth Centres (Development Corporations) Amendment Act 1992.

Growth Centres (Development Corporations) Amendment 1992

**SCHEDULE 1—AMENDMENT OF GROWTH CENTRES
(DEVELOPMENT CORPORATIONS) ACT 1974—*continued***

Explanatory note

The amendment in item (21) (c) enables regulations of a savings and transitional nature consequent on the enactment of the proposed Act to be made. The other amendments are consequential.

**SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF
OTHER ACTS**

(Sec. 4)

Albury-Wodonga Development Act 1974 No. 47:

Section 11 (**Resumption**):

Omit section 11 (5).

Public Authorities (Financial Arrangements) Act 1987 No. 33:

Schedule 1 (**Authorities**):

Omit:

Bathurst-Orange Development Corporation.

Macarthur Development Corporation.

Insert instead, in alphabetical order of authorities:

A corporation constituted under the Growth Centres
(Development Corporations) Act 1974.



SECOND READING SPEECH
GROWTH CENTRES (DEVELOPMENT CORPORATIONS)
AMENDMENT BILL

The main purpose of the Bill is to amend the Growth Centres (Development Corporations) Act 1974 in order to dissolve the Bathurst-Orange Development Corporation and the Macarthur Development Corporation and to enable the creation of new Development Corporations for vital urban redevelopments.

It is the Government's view that both corporations have now outlived the purposes for which they were established.

This should not come as a surprise to anyone.

The phase down of the Bathurst-Orange Development Corporation on a planned basis, having been announced on 7 June 1989, the phasing down of the Macarthur Development Corporation was announced on 18 May 1990.

The growth centres at Macarthur and Bathurst-Orange were originally established having regard to United Kingdom "new town" models where it was always expected that the statutory development corporation, as the name suggests, would operate only during the initial evolutionary or developmental stages of the new town.

It is interesting to observe that in 1974, during parliamentary debate on the principal Act, it was clearly intended that the development corporations would operate for a finite, though not predetermined, period.

These Development Corporations have operated for approximately 17 years, similar to the British new town corporations which had an average life of 20 years.

As part of the Government's action to wind down Bathurst-Orange Development Corporation, it granted financial assistance to each of the three local councils to enhance their role in encouraging private sector development and enthusiasm in the region.

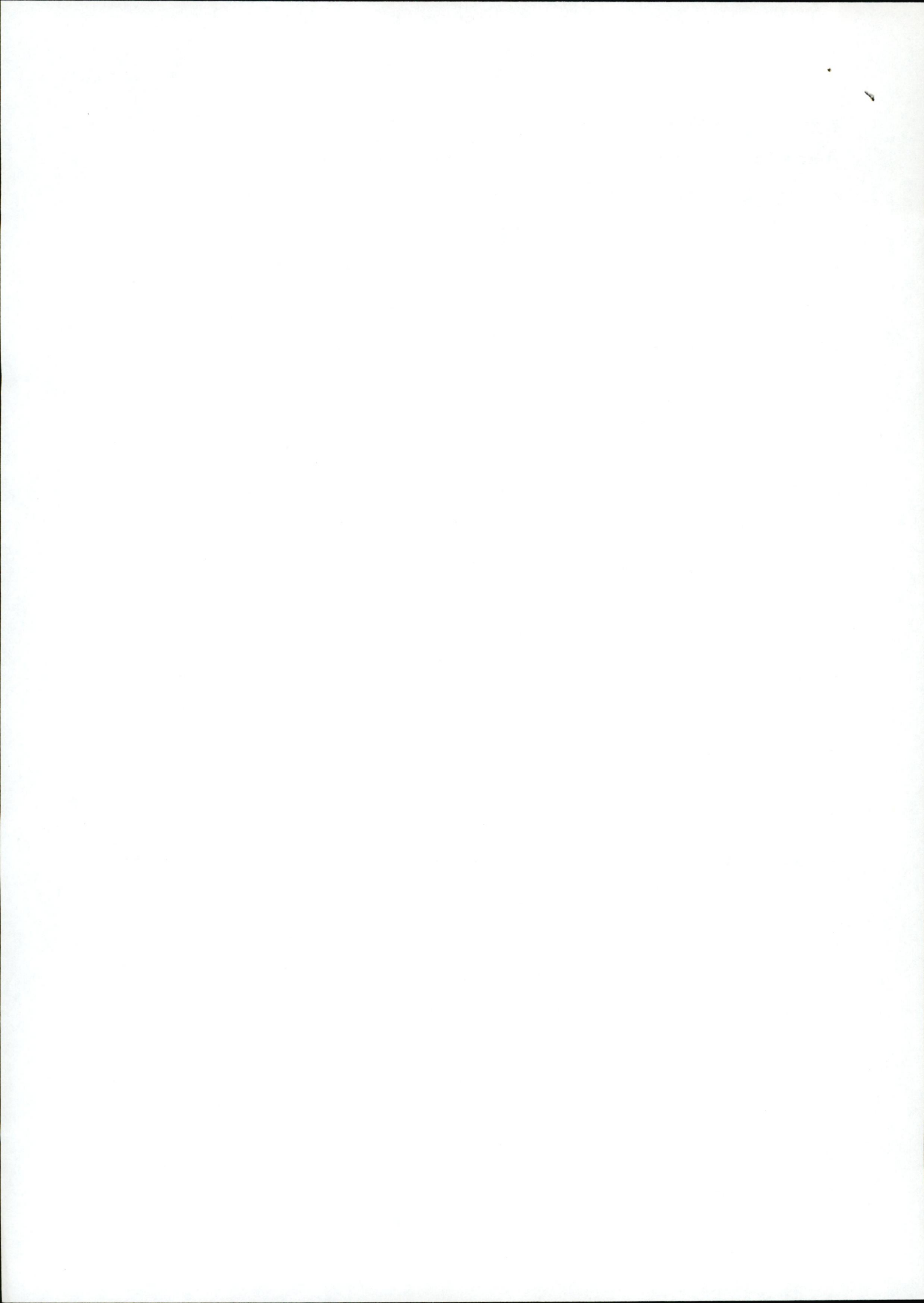
The Government also ensured that the phase down of activity was done in an orderly manner, thus avoiding undue effects on land values in respect of regions and extending to the staff of the corporations an adequate opportunity to adjust to the changes.

Both areas have benefited, in varying ways and to different degrees, from the extensive planning, land consolidation and development that has occurred since 1974 as a direct result of the activities of the two development corporations.

However, the stage has been reached in both areas where direct public sector involvement, as contemplated in the growth centres legislation, is no longer appropriate or necessary.

In essence, both organisations have become providers of commercial and industrial land in their respective areas.

The Bill provides that the remaining assets of the two development corporations be vested in a Ministerial Development Corporation under the provisions of the Growth Centres (Development Corporations) Act 1974.



This statutory body will be concerned only with the orderly disposal of the remaining assets leaving the provision of industrial sites generally to the private sector and to local government.

A large industrial subdivision by the Macarthur Development Corporation is under way at present at Smeaton Grange, southwest of Campbelltown.

Significant development funding will be required to complete this project during the next three to four years. That funding will be provided from remaining assets for the Macarthur Development Corporation.

It is pleasing to note that the Macarthur Development Corporation could finish its existence with a healthy net surplus, whilst the Bathurst-Orange Development Corporation accounts could show close to a break-even position.

These outcomes do not take into account the writing off of certain loan interest charges by the State and Commonwealth Governments.

The benefits provided by the two development corporations have thus been established without a net drain on taxpayers' funds.

Indeed, Macarthur could produce a significant profit for the State when current development works are completed and the industrial estates are sold.

The Bill provides also for the repeal of the Growth Centres (Land Acquisition) Act 1974.

There is not seen to be any need to retain this legislation, which provides for a special means of valuation of growth centre lands.

Additional provisions of the Bill will make minor or consequential amendments to the Growth Centres (Development Corporations) Act 1974 to ensure that effective management of the Ministerial Development Corporation can be exercised by the Property Services Group.

The Act is also updated to remove existing provisions for a Development Corporation to exercise local government powers such as those contained in the Local Government and Environmental Planning and Assessment Acts.

This will assist where new Development Corporations are envisaged in the future for the orderly development of areas such as Homebush Bay.

**GROWTH CENTRES (DEVELOPMENT CORPORATIONS)
AMENDMENT ACT 1992 No. 9**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Growth Centres (Development Corporations) Act 1974 No. 49
4. Consequential amendment of other Acts
5. Repeal of Growth Centres (Land Acquisition) Act 1974 No. 1
6. Explanatory notes

**SCHEDULE 1—AMENDMENT OF GROWTH CENTRES (DEVELOPMENT
CORPORATIONS) ACT 1974**

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER ACTS

**GROWTH CENTRES (DEVELOPMENT CORPORATIONS)
AMENDMENT ACT 1992 No. 9**

NEW SOUTH WALES



Act No. 9, 1992

An Act to amend the Growth Centres (Development Corporations) Act 1974 to constitute a Ministerial Development Corporation, to dissolve the Bathurst-Orange and Macarthur Development Corporations and to provide for the transfer of the remaining assets and liabilities of those corporations to the Ministerial Development Corporation; to repeal the Growth Centres (Land Acquisition) Act 1974; and for other purposes.
[Assented to 17 March 1992]

Growth Centres (Development Corporations) Amendment Act 1992 No. 9

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Growth Centres (Development Corporations) Amendment Act 1992.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

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

3. The Growth Centres (Development Corporations) Act 1974 is amended as set out in Schedule 1.

Consequential amendment of other Acts

4. The Acts specified in Schedule 2 are amended as set out in that Schedule.

Repeal of Growth Centres (Land Acquisition) Act 1974 No. 1

5. The Growth Centres (Land Acquisition) Act 1974 is repealed.

Explanatory notes

6. Matter appearing under the heading "Explanatory note" in Schedule 1 does not form part of this Act.

**SCHEDULE 1—AMENDMENT OF GROWTH CENTRES
(DEVELOPMENT CORPORATIONS) ACT 1974**

(Sec. 3)

(1) Section 3 (**Definitions**):

- (a) From section 3 (1), omit the definitions of "Authority", "Director", "General Manager", "Macarthur Development Corporation" and "Macarthur Growth Area".
- (b) From the definition of "corporation" in section 3 (1), omit "or the Macarthur Development Corporation", insert instead "or the Ministerial Development Corporation".

Growth Centres (Development Corporations) Amendment Act 1992 No. 9

SCHEDULE 1—AMENDMENT OF GROWTH CENTRES
(DEVELOPMENT CORPORATIONS) ACT 1974—*continued*

(c) Insert, in section 3 (1), in alphabetical order:

“**Managing Director**” means the Managing Director of the Property Services Group;

“**Ministerial Development Corporation**” means the Ministerial Development Corporation constituted by Part 3A;

(d) At the end of the definition of “member” in section 3 (1), insert “, and includes the Managing Director”.

(e) Omit section 3 (2) (b).

Explanatory note

The amendments in item (1) are consequential on the dissolution of the Macarthur Development Corporation, the constitution of the new Ministerial Development Corporation and the removal of General Managers as members of development corporations.

(2) Section 5 (**Orders**):

After section 5 (2), insert:

(2A) A development corporation may be constituted in respect of a growth area within any area (including, but not limited to, an urban area or a rural area).

Explanatory note

The amendment in item (2) makes it clear that the growth centre in respect of which a development corporation is constituted may be in an urban area as well as a rural area.

(3) Section 6 (**Provisions relating to constitution and procedure of development corporation**):

(a) Omit section 6 (1) (b), insert instead:

(b) the Managing Director.

(b) After section 6 (1), insert:

(1A) The Managing Director is responsible, as the chief executive of a development corporation, for managing the affairs of the development corporation subject to and in accordance with any directions given to the Managing Director by the development corporation.

Growth Centres (Development Corporations) Amendment Act 1992 No. 9

SCHEDULE 1—AMENDMENT OF GROWTH CENTRES
(DEVELOPMENT CORPORATIONS) ACT 1974—*continued*

Explanatory note

The amendments in item (3) provide for the Managing Director of the Property Services Group to be an “ex officio” member of a development corporation and to manage the affairs of the development corporation. At present, a development corporation consists of not fewer than 4 persons appointed by the Governor and a full-time General Manager for each corporation.

(4) Section 8 (**General powers of development corporation**):

- (a) From section 8 (1), omit “Subject to this Act”, insert instead “Subject to this Act, the Environmental Planning and Assessment Act 1979 and any other relevant Act”.
- (b) Omit section 8 (1) (c) and (2).

Explanatory note

The amendments in item (4) make it clear that development corporations, when exercising their powers under the Act, are subject to the usual procedures relating to the carrying out of development as provided in relevant legislation (in particular, the Environmental Planning and Assessment Act 1979).

(5) Sections 9 and 10:

Omit the sections, insert instead:

Power to acquire land etc.

9. (1) A development corporation may, for the purposes of this Act, acquire land by agreement or by compulsory process in accordance with the Land Acquisition (Just Terms Compensation) Act 1991.

(2) Without limiting the generality of subsection (1), a development corporation may, in accordance with that subsection, acquire:

- (a) any land within the growth centre in respect of which the development corporation was constituted which the corporation considers should be made available in the public interest or any purpose of the growth centre; or
- (b) any land of which the land proposed to be acquired under this Act forms part; or
- (c) any land adjoining or in the vicinity of any land proposed to be acquired under this Act; or
- (d) a leasehold or any other interest in land.

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Application of Public Works Act 1912

10. (1) For the purposes of the Public Works Act 1912, any acquisition of land under section 9 is taken to be for an authorised work and the development corporation is, in relation to that authorised work, taken to be the Constructing Authority.

(2) Sections 34, 35, 36 and 37 of the Public Works Act 1912 do not apply in respect of works constructed under this Act.

Explanatory note

The amendment in item (5) replaces the provisions relating to compulsory acquisition of land with the standard provisions applicable under the Land Acquisition (Just Terms Compensation) Act 1991.

(6) Section 13 (**Covenants in leases**):

Omit section 13 (3).

Explanatory note

The amendment in item (6) is consequential on the amendment in item (4) which provides that development corporations are subject to relevant legislation and that the provisions of the Act should not override the operation of other relevant legislation.

(7) Section 19 (**Development corporation may enter into arrangements with other public authorities**):

Omit section 19 (2).

(8) Sections 23 (**Exercise of council's powers by development corporation**), 31 (**Environmental planning instruments**):

Omit the sections.

Explanatory note

The amendment in item (7) removes an obsolete provision relating to the State Planning Authority (which no longer exists) acting on behalf of a development corporation in carrying out legal or other work in connection with the powers etc. of the corporation.

The amendments in item (8) omit provisions enabling a development corporation to exercise certain planning and other powers of a local council and providing for the Minister for Planning to determine any differences between a corporation and a local council (such differences could arise as a result of a

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requirement under an environmental planning instrument for the council to consult with the corporation concerned before granting development consent in certain cases). As a result of the proposed repeal of sections 23 and 31, development corporations will be subject to the Environmental Planning and Assessment Act 1979 in the exercise of their powers.

(9) Part 3A:

Omit the Part, insert instead:

**PART 3A—DISSOLUTION OF
DEVELOPMENT CORPORATIONS**

Division 1—Definitions

Definitions

23A. In this Part:

“**assets**” means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents;

“**dissolved development corporation**” means a development corporation which is dissolved under this Part;

“**instrument**” means an instrument (other than this Act) which creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order and process of a court;

“**liabilities**” means all liabilities, debts and obligations (whether present or future and whether vested or contingent).

**Division 2—Dissolution of development
corporations**

**Dissolution of Bathurst-Orange and Macarthur
Development Corporations**

23B. The Bathurst-Orange Development Corporation and the Macarthur Development Corporation are dissolved.

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(DEVELOPMENT CORPORATIONS) ACT 1974—*continued*

Governor may dissolve development corporations

23C. (1) The Governor may, on the recommendation of the Minister, by order published in the Gazette:

- (a) dissolve a development corporation; and
- (b) amend Schedule 1 by omitting any Part which relates to the dissolved development corporation.

(2) Any such order takes effect on and from the date of publication of the order or a later date specified in the order.

(3) The Minister is not to make such a recommendation to the Governor unless the Minister is satisfied that the development corporation concerned has substantially completed its planning and development functions in respect of the growth centre for which it was constituted.

(4) Nothing in this section affects section 5.

Transfer of assets etc.

23D. (1) On the commencement of section 23B or on an order under section 23C taking effect, the assets, rights and liabilities (if any) of the dissolved development corporation are transferred to the Ministerial Development Corporation.

(2) On such a transfer, the following provisions have effect:

- (a) the assets of the dissolved development corporation vest in the Ministerial Development Corporation by virtue of this section and without the need for any conveyance, transfer, assignment or assurance;
- (b) the rights and liabilities of the dissolved development corporation become by virtue of this section the rights and liabilities of the Ministerial Development Corporation;
- (c) all proceedings commenced before the transfer by or against the dissolved development corporation and pending immediately before the transfer are taken to be proceedings pending by or against the Ministerial Development Corporation;
- (d) any act, matter or thing done or omitted to be done before the transfer by, to or in respect of the dissolved development corporation is (to the extent that that act,

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matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Ministerial Development Corporation;

(e) a reference in an instrument of any kind to the dissolved development corporation is to be read as a reference to the Ministerial Development Corporation.

(3) The operation of this section is not to be regarded:

(a) as a breach of contract or confidence or otherwise as a civil wrong; or

(b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities; or

(c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.

(4) The operation of this section is not to be regarded as an event of default under any contract or other agreement.

(5) No attornment to the Ministerial Development Corporation by a lessee from the dissolved development corporation is required.

(6) Any instrument executed only for:

(a) a purpose ancillary to or consequential on the operation of this section; or

(b) the purpose of giving effect to this section,

is not chargeable with stamp duty.

**Division 3—Establishment of Ministerial
Development Corporation**

Establishment of Ministerial Development Corporation

23E. (1) There is constituted by this Act a body corporate with the corporate name of the Ministerial Development Corporation.

(2) The affairs of the Ministerial Development Corporation are to be managed by the Minister.

(3) Any act, matter or thing done in the name of, or on behalf of, the Ministerial Development Corporation by the

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Minister, or with the authority of the Minister, is taken to have been done by the Ministerial Development Corporation.

Functions of Ministerial Development Corporation

23F. (1) The Ministerial Development Corporation is responsible for the management and disposal of the remaining assets, rights and liabilities of a dissolved development corporation.

(2) Without limiting the generality of subsection (1), the Ministerial Development Corporation, for the purposes of that subsection:

- (a) has, in relation to the assets, rights and liabilities of the dissolved development corporation that are transferred to it, the same powers, authorities and functions of that development corporation under sections 8–13, 18, 19 and 21; and
- (b) may, with the concurrence of the Treasurer, transfer any of its assets, rights and liabilities to the Crown or to any other person on behalf of the Crown.

(3) The Ministerial Development Corporation has such other functions as may be conferred or imposed on it by or under this or any other Act.

Explanatory note

The amendment in item (9) replaces Part 3A (which presently contains provisions dealing with the Macarthur Development Corporation) with a new Part dealing with the dissolution of development corporations.

Proposed section 23A contains definitions for the purposes of the new Part.

Proposed section 23B dissolves the Bathurst-Orange and Macarthur Development Corporations and proposed section 23C enables the Governor (on the recommendation of the Minister) to dissolve future development corporations by order published in the Gazette.

Proposed section 23D transfers the assets, rights and liabilities of a dissolved development corporation to the Ministerial Development Corporation. Instruments connected with the transfer of such assets, rights and liabilities are exempt from stamp duty.

Proposed section 23E constitutes the Ministerial Development Corporation. Its affairs are to be managed by the Minister.

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Proposed section 23F provides that the Ministerial Development Corporation will have the function of managing and disposing of the remaining assets, rights and liabilities of dissolved development corporations that are transferred to it under Division 2 of the new Part.

(10) Section 27:

Omit sections 27–29A, insert instead:

Investments

27. A corporation may invest money held by it:

- (a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or
- (b) if that Act does not confer power to invest money so held, in any manner authorised for the time being for the investment of trust funds and in any other manner approved by the Minister with the concurrence of the Treasurer.

Explanatory note

The amendment in item (10) replaces provisions relating to investment of money by corporations under the Act, arranging temporary accommodation and borrowing powers with the standard investment provision enabling a development corporation or the Ministerial Development Corporation to invest money under the Public Authorities (Financial Arrangements) Act 1987. As an “authority” for the purposes of that Act, such a corporation will also be able to arrange for financial accommodation (i.e. borrowing) in the same way as the Bathurst-Orange and Macarthur Development Corporations can at present.

(11) Section 32 (**Disputes**):

Omit section 32 (1), insert instead:

- (1) In this section, “**corporation**” does not include the Ministerial Development Corporation.

Explanatory note

The amendment in item (11) provides that the provisions concerning the resolution by the Minister of disputes arising between a corporation and a local council under the Act do not apply to the Ministerial Development Corporation.

(12) Section 33 (**Misuse of information**):

(a) Omit section 33 (6) (ai), (b) and (c), insert instead:

- (b) if the person is an officer or employee of the Property Services Group;

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- (b) From section 33 (6) (e), omit “Department of Decentralisation, the Authority”, insert instead “Property Services Group”.
- (13) Section 34 (**Disclosure of interest**):
- (a) From section 34 (1) and (9), omit “or of the Macarthur Development Corporation” wherever occurring.
- (b) From section 34 (8), omit “or of the Macarthur Development Corporation, as the case may be,”.
- (c) From section 34 (11), omit “or the Macarthur Growth Area”.
- (d) Omit section 34 (12).
- (14) Sections 37 (**Annual report**), 39 (**Authentication of process**):
Omit the sections.

Explanatory note

The amendments in items (12) and (13) are consequential.

The amendment in item (14) omits unnecessary provisions which are covered by other legislation dealing with statutory corporations (i.e. the Annual Reports (Statutory Bodies) Act 1984 and the Interpretation Act 1987).

- (15) Schedule 1 (**Growth Centres**):
Omit Part 1.
- (16) Schedule 1A (**Macarthur Growth Area**):
Omit the Schedule.

Explanatory note

The amendments in items (15) and (16) omit the descriptions of the Bathurst-Orange and Macarthur Growth Centres contained in the Act.

- (17) Schedule 2 (**Provisions relating to the constitution and procedure of development corporations**):
- (a) Omit clauses 1 (2), 4 (1) and 7 (2).
- (b) From clauses 3 (2), 4 (2), 5, 7 (1), 9 (2) and 10 (4), omit “General Manager” wherever occurring, insert instead “Managing Director”.

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(c) From clause 4 (3), omit “(other than the office of General Manager)”.

(d) From clause 4 (4), omit “(other than the office of the General Manager)”.

Explanatory note

The amendments in item (17) are consequential on the amendment which replaces the General Managers of development corporations with the Managing Director of the Property Services Group.

(18) Schedule 3 (**Modification of Public Works Act 1912**):

Omit the Schedule.

(19) Schedule 4 (**Provisions relating to loans**):

Omit the Schedule.

(20) Schedule 5 (**Modification of the Environmental Planning and Assessment Act 1979**):

Omit the Schedule.

Explanatory note

The amendments in items (18)–(20) are consequential.

(21) Schedule 6 (**Savings, transitional and other provisions**):

(a) Omit clause 1, insert instead:

References to General Manager

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 as a reference to the Managing Director.

(b) Omit clause 2 (2).

(c) After clause 2, insert:

Savings and transitional regulations

3. The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the Growth Centres (Development Corporations) Amendment Act 1992.

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Explanatory note

The amendment in item (21) (c) enables regulations of a savings and transitional nature consequent on the enactment of the proposed Act to be made. The other amendments are consequential.

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF
OTHER ACTS

(Sec. 4)

Albury-Wodonga Development Act 1974 No. 47:

Section 11 (**Resumption**):

Omit section 11 (5).

Public Authorities (Financial Arrangements) Act 1987 No. 33:

Schedule 1 (**Authorities**):

Omit:

Bathurst-Orange Development Corporation.

Macarthur Development Corporation.

Insert instead, in alphabetical order of authorities:

A corporation constituted under the Growth Centres
(Development Corporations) Act 1974.

[*Minister's second reading speech made in—
Legislative Assembly on 25 February 1992
Legislative Council on 4 March 1992*]

