

**LOCAL GOVERNMENT (CONSEQUENTIAL PROVISIONS)
ACT 1993 No. 32**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Repeals
4. Amendment of instruments
5. Savings, transitional and other provisions

SCHEDULE 1—REPEALS

SCHEDULE 2—AMENDMENT OF INSTRUMENTS

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

**LOCAL GOVERNMENT (CONSEQUENTIAL PROVISIONS)
ACT 1993 No. 32**

NEW SOUTH WALES



Act No. 32, 1993

An Act to repeal certain enactments; to amend certain other enactments; and to enact provisions consequential on the enactment of the Local Government Act 1993. [Assented to 8 June 1993]

Local Government (Consequential Provisions) Act 1993 No. 32

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Local Government (Consequential Provisions) Act 1993.

Commencement

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

(2) Clause 6 of Schedule 3 commences on the date of assent to this Act.

Repeals

3. (1) Each instrument specified in Schedule 1 is repealed.

(2) Different days may be appointed for the commencement of subsection (1) for the purpose of repealing, on different days, different provisions of an instrument specified in Schedule 1 or an instrument that may be made under such an instrument.

Amendment of instruments

4. Each instrument specified in Schedule 2 is amended as set out in that Schedule.

Savings, transitional and other provisions

5. Schedule 3 has effect.

SCHEDULE 1—REPEALS

(Sec. 3)

City of Sydney Improvement Act (1879) 42 Vic. No. 25

Local Government Act 1919 No. 41 (other than Parts 12, 18, 22 and 28)

City of Newcastle Act 1986 No. 43

Ordinances made or deemed to have been made under the Local Government Act 1919 and in force at the commencement of this Schedule (other than Ordinances Nos. 30, 30A, 30C, 30D, 32, 33, 34A, 49, 50, 50A and 59)

SCHEDULE 2—AMENDMENT OF INSTRUMENTS

(Sec. 4)

City of Sydney Act 1988 No. 48

- (1) Section 2 (**Commencement**):
Omit section 2 (3).
- (2) Section 3 (**Principal Act**):
From section 3 (1), omit "1919", insert instead "1993".
- (3) Section 4 (**Definitions**):
Omit the definition of "South Sydney Council".
- (4) Part 2 (**Constitution of the Cities of Sydney and South Sydney**):
Omit the Part.
- (5) Sections 22 (**Compulsory voting at elections and polls**), 34 (**Members of the Planning Committee**):
Omit "aldermen" wherever occurring, insert instead "councillors".
- (6) Section 33 (**The Planning Committee**):
From section 33 (5), omit "section 654", insert instead "section 742".
- (7) Section 34 (**Members of the Planning Committee**):
After section 34 (2), insert:
 - (3) The City Council may appoint an alternate for each of the members of the Planning Committee referred to in subsection (1) (c).
- (8) Section 52 (**Regulations**):
Omit the section.
- (9) Sections 54–56:
Omit the sections.
- (10) Section 58 (**Regulations**):
At the end of section 58, insert:
 - (2) In particular, the regulations may make provision for or with respect to the following:

Local Government (Consequential Provisions) Act 1993 No. 32

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (a) the form in which applications under Division 4 of Part 4 may be made;
 - (b) the fees to be lodged with applications;
 - (c) the determination of applications;
 - (d) the recording of determinations;
 - (e) the notification of the making of determinations;
 - (f) the giving of effect to determinations;
 - (g) the public availability of determinations.
- (11) Schedule 1 (**The Planning Committee**):
- (a) From clauses 2 and 4, omit “an alderman” wherever occurring, insert instead “a councillor”.
 - (b) Omit clause 10 (1), insert instead:
 - (1) Chapter 14 (Part 1 excepted) of the Principal Act applies to and in respect of:
 - (a) a member of the Planning Committee in the same way as it applies to and in respect of a councillor; and
 - (b) a member of a subcommittee of the Planning Committee in the same way as it applies to and in respect of a member of a council committee; and
 - (c) a meeting of the Planning Committee in the same way as it applies to and in respect of a meeting of a council; and
 - (d) a meeting of a subcommittee of the Planning Committee in the same way as it applies to and in respect of a meeting of a council committee.

Crown Lands Act 1989 No. 6

- (1) Sections 75 (**Definitions**), 76 (**Vesting of certain land in councils**), 138 (**Certain land may be declared to be Crown land**):
 - Omit “Local Government Act 1919” wherever occurring, insert instead “Local Government Act 1993”.

Local Government (Consequential Provisions) Act 1993 No. 32

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(2) Section 77 (**Effect of vesting**):

From section 77 (1) (a), omit “Local Government Act 1919 by the council subject to the operation of section 518 (2) and (5) of that Act”, insert instead “Local Government Act 1993 and to have been classified as community land under that Act”.

(3) Section 78 (**Definitions**):

Omit “Local Government Act 1919” wherever occurring, insert instead “Local Government Act 1993”.

(4) Section 98 (**Application of Local Government Act where a council manages a reserve trust**):

(a) Omit “Local Government Act 1919” wherever occurring, insert instead “Local Government Act 1993”.

(b) After section 98 (1), insert:

(1A) However, the trust has no power to classify the public reserve or any part of it as operational land under the Local Government Act 1993.

(5) Section 158 (**Removal of unauthorised structures**):

After “1919” wherever occurring, insert “, Part 1 of Chapter 7 of the Local Government Act 1993”.

(6) Schedule 3 (**Provisions relating to the members of a trust board**):

(a) Omit clause 6 (3), insert instead:

(3) Subclause (2) does not apply if the member ceased to hold office:

(a) in circumstances giving rise to a vacancy in civic office under section 234 of the Local Government Act 1993;
or

(b) because of a declaration under section 255 of that Act.

(b) Omit the definition of “local government office” from clause 9, insert instead:

“**local government office**” means the office of a councillor (including a mayor) under the Local Government Act 1993.

Local Government (Consequential Provisions) Act 1993 No. 32

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

Darling Harbour Authority Act 1984 No. 103

Section 59 (Application of certain legislation within Development Area):

From section 59 (1) (b) and (3) (b), omit “sections 270L and 277 (3) (b) and” wherever occurring.

Environmental Offences and Penalties Act 1989 No. 150

Section 8F (Littering):

From section 8F (3) (a) (ii), omit “Local Government Act 1919”, insert instead “Local Government Act 1993”.

Environmental Planning and Assessment Act 1979 No. 203

(1) **Section 77 (Making of development applications):**

After section 77 (3A), insert:

(3B) The consent authority may reject a development application within 7 days after its receipt if it is not clear as to the development consent sought or if it is not easily legible. An application so rejected is taken not to have been made and the application fee is to be refunded.

(2) **Section 91 (Determination of development application):**

(a) From section 91 (3) (h), omit “section 94”, insert instead “section 91AA, 91AB or 94”.

(b) After section 91 (3), insert:

(3A) A consent may be granted subject to a condition that a specified aspect of the development that is ancillary to the core purpose of the development is to be carried out to the satisfaction of the consent authority or a person specified by the consent authority.

(3) **Sections 91AA, 91AB:**

After section 91, insert:

“In principle” consent

91AA. (1) A development consent may be granted subject to a condition that the consent is not to operate until the applicant satisfies the consent authority as to any matter

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

specified in the condition. Nothing in this Act prevents a person from doing such things as may be necessary to comply with the condition.

(2) Such a consent must be clearly identified as an “in principle” consent (whether by the use of that expression or by reference to this section or otherwise).

(3) An “in principle” consent must clearly distinguish conditions concerning matters as to which the consent authority must be satisfied before the consent can operate from any other conditions.

(4) A consent authority may specify the period in which the applicant must produce evidence to the consent authority sufficient to enable it to be satisfied as to those matters.

(5) The applicant may produce evidence to the consent authority sufficient to enable it to be satisfied as to those matters and, if the consent authority has specified a period for the purpose, the evidence must be produced within that period.

(6) If the applicant produces evidence in accordance with this section, the consent authority must notify the applicant whether or not it is satisfied as to the relevant matters. If the consent authority has not notified the applicant within the period of 28 days after the applicant’s evidence is produced to it, the consent authority is, for the purposes only of section 97, taken to have notified the applicant that it is not satisfied as to those matters on the date on which that period expires.

Staged development

91AB. (1) A development consent may be granted:

- (a) for the development for which the consent is sought; or
- (b) for that development, except for a specified part or aspect of that development; or
- (c) for a specified part or aspect of that development.

(2) Such a development consent may be granted subject to a condition that the development or the specified part or aspect of the development, or any thing associated with the development or the carrying out of the development, must be the subject of another development consent.

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(4) Section 92:

Omit the section, insert instead:

Notice to applicant of determination of development application

92. (1) The consent authority (or the Minister in the case of a determination by the Minister under section 91A) must give notice of the determination of the development application in the prescribed form and manner.

(2) The date of the determination and the date from which the development consent operates (if development consent is granted) must be endorsed, as prescribed, on the notice.

(3) In the case of a development consent granted subject to a condition that the consent is not to operate until the applicant satisfies the consent authority as to any matter specified in the condition:

(a) the date from which the consent operates must not be endorsed on the notice; and

(b) if the applicant satisfies the consent authority as to the matter, the consent authority must give notice to the applicant, in the prescribed form and manner, of the date from which the consent operates.

(4) If the determination is made by the granting of consent subject to conditions or by the refusing of consent, the notice of the determination must:

(a) indicate the reasons for the imposition of the conditions or the refusal; and

(b) notify the applicant of the provisions of this Act conferring a right of appeal against the determination.

(5) Section 93 (**Date from which consent operates**):

(a) From section 93, omit “under section 91” wherever occurring.

(b) From section 93 (1), omit “, as prescribed,” wherever occurring.

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(c) After section 93 (5), insert:

(6) A development consent in respect of a development application that is taken to have been determined under section 91A operates from the date on which it is taken to have been determined.

(6) Section 94 (**Payment towards provision or improvement of amenities or services**):

After section 94 (8), insert:

(9) This section does not apply to public amenities or public services comprising water supply or sewerage works.

(7) Section 97 (**Appeal by an applicant**):

(a) After section 97 (1), insert:

(1A) An applicant who is dissatisfied with a decision that a consent authority is not satisfied as to a matter, being a matter as to which it must be satisfied before an “in principle” consent under section 91AA can operate, may appeal to the Court within 12 months after the consent authority notifies the applicant of its decision.

(b) Omit “subsection (1)” wherever occurring, insert instead “this section”.

(8) Section 99 (**Lapsing of consent**):

Omit section 99 (1)–(4B), insert instead:

(1) A development consent lapses:

(a) 5 years after the date from which it operates, except as provided by paragraph (b); or

(b) in the case of a development consent that is subject to a condition under section 91AB (2), 5 years after the date from which the initial development consent operates, or 2 years after the date from which a later or the latest development consent granted in accordance with the condition operates, whichever is the longer.

(2) A consent authority, in granting development consent, may vary either or both of the periods referred to in subsection (1), despite that subsection.

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (3) Such a variation may not be made so as to cause:
- (a) a development consent to erect or demolish a building or to subdivide land to lapse within 2 years after the date from which the consent operates; or
 - (b) a development consent of a kind prescribed by regulation to lapse within the period prescribed by regulation in relation to the consent.

(4) Development consent for:

- (a) the erection of a building; or
- (b) the subdivision of land; or
- (c) the carrying out of a work,

does not lapse if building, engineering or construction work relating to the building, subdivision or work is physically commenced on the land to which the consent applies before the date on which the consent would otherwise lapse under this section.

(4A) Development consent for development other than that referred to in subsection (4) does not lapse if the use of any land, building or work the subject of that consent is actually commenced before the date on which the consent would otherwise lapse under this section.

(4B) If, in granting a development consent, the consent authority reduces the period referred to in subsection (1) (a) to less than 5 years, the applicant or any other person entitled to act on the consent may apply to the consent authority, before the period expires, for an extension of 1 year.

(4C) The consent authority may grant the extension if satisfied that the applicant has shown good cause.

(4D) A person making an application under subsection (4B) who is dissatisfied with the determination of the application or the failure of the consent authority to determine the application within 40 days after it is made, may, except where the application is made in respect of a consent granted by the Minister under section 101, appeal to the Court, and the Court may determine the appeal.

Local Government (Consequential Provisions) Act 1993 No. 32

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(4E) An extension of 1 year granted under this section commences to run from the later of the following:

- (a) the date on which the consent would have elapsed but for the extension;
- (b) the date on which the consent authority granted the extension or, if the Court has allowed the extension in determining an appeal, the date on which the Court determined the appeal.

(9) Section 101 (**Determination of development applications by the Minister**):

In section 101 (8), after “91”, insert “and sections 91AA and 91AB”.

Environmental Planning and Assessment Regulation 1980

Clause 41F (**Structure and subject-matter of plan**):

At the end of clause 41F, insert:

(2) In determining the contribution rates for different types of development, the council must take into consideration conditions that may be imposed under section 97 (1) (b) of the Local Government Act 1993.

Freedom of Information Act 1989 No. 5

(1) Section 6 (**Definitions**):

- (a) Omit the definition of “local authority” in section 6 (1), insert instead:

“**local authority**” means a council or county council within the meaning of the Local Government Act 1993;

- (b) From paragraph (d) of the definition of “principal officer” in section 6 (1), omit “Mayor, President or Chairman, as the case may be,”, insert instead “general manager”.

(2) Section 13 (**Application of Part**):

Omit the section.

(3) Section 14 (**Publication of information concerning affairs of agencies**):

- (a) In section 14 (1), after “agency” where firstly occurring, insert “(other than a local authority)”.

Local Government (Consequential Provisions) Act 1993 No. 32

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(b) After section 14 (1), insert:

(1A) The general manager of a local authority has, in relation to the local authority, the same functions under subsection (1) as the responsible Minister has in relation to an agency.

(4) Section 16 (**Right of access to agencies' documents**):

Omit section 16 (2).

Hunter Water Board (Corporatisation) Act 1991 No. 53

(1) Section 28 (**Corporation not liable to pay annual charge on pipes etc.**):

Omit "Section 171 of the Local Government Act 1919", insert instead "Section 611 of the Local Government Act 1993".

(2) Section 48 (**Definitions**):

Omit paragraph (a) of the definition of "approval" in section 48 (1), insert instead:

(a) an approval under Part 1 of Chapter 7 of the Local Government Act 1993 for the erection of a building; or

(3) Section 51 (**Consent authority to notify Corporation of certain applications etc.**):

From section 51 (1), omit "a building application under section 311 of the Local Government Act 1919", insert instead "an application for approval to erect a building under Part 1 of Chapter 7 of the Local Government Act 1993".

(4) Section 70 (**Regulations**):

Omit section 70 (5) (d), insert instead:

(d) charges on land and the recovery of amounts charged on land, including applying the provisions (with or without modification) of Divisions 4 and 5 of Part 2 of Chapter 17 of the Local Government Act 1993.

Local Government (Consequential Provisions) Act 1993 No. 32

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

Justices Act 1902 No. 27

(1) Section 63 (**Manner of service of summons**):

Omit section 63 (2A) (c), insert instead:

(c) as a councillor or employee of a council within the meaning of the Local Government Act 1993;

(2) Section 75B (**Ex parte procedure for certain offences**):

From section 75B (1) (c), omit "Local Government Act 1919", insert instead "Local Government Act 1993".

(3) Section 100I (**Definitions**):

From paragraph (a) of the definition of "penalty notice" in section 100I (1), omit the matter relating to the Local Government Act 1919, insert instead:

Local Government Act 1993, section 679;

Land and Environment Court Act 1979 No. 204

(1) Section 16 (**Jurisdiction of the Court generally**):

After section 16 (1), insert:

(1A) The Court also has jurisdiction to hear and dispose of any matter not falling within its jurisdiction under any other provision of this Act or under any other Act, being a matter that is ancillary to a matter that falls within its jurisdiction under any other provision of this Act or under any other Act.

(2) Section 18 (**Class 2—local government and miscellaneous appeals**):

Omit section 18 (a), insert instead:

(a) appeals or objections under sections 82, 176, 177, 178, 180, 182, 185 and 611 of the Local Government Act 1993;

(3) Section 19 (**Class 3—land tenure, valuation, rating and compensation matters**):

Omit section 19 (d), insert instead:

(d) appeals and applications under sections 179, 181, 526 (and section 526 as applied by section 531), 574, 677 and 730 of the Local Government Act 1993;

Local Government (Consequential Provisions) Act 1993 No. 32

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (4) Section 20 (**Class 4—environmental planning and protection civil enforcement**):
- (a) Omit section 20 (1) (d), insert instead:
 - (d) proceedings under sections 673 and 674 of the Local Government Act 1993;
 - (b) From section 20 (3) (a), omit “Part 7, 11, 12, 12A or 12B of the Local Government Act 1919;”, insert instead “Part 2 of Chapter 6, Chapter 7 or Chapter 15 of the Local Government Act 1993;”.
- (5) Section 21 (**Class 5—environmental planning and protection summary enforcement**):
- Omit section 21 (g), insert instead:
 - (g) proceedings under section 691 of the Local Government Act 1993;
- (6) Section 33 (**Exercise of jurisdictions in the Divisions**):
- After section 33 (2), insert:
 - (3) The Court’s jurisdiction under section 16 (1A) is to be exercised by a Judge, but this subsection does not prevent a Judge from being assisted by one or more assessors in accordance with section 37.
- (7) Section 40 (**Additional powers of Court—provision of easements**):
- (a) From section 40 (1), omit “or section 317L or 341 of the Local Government Act 1919”, insert instead “or section 176, 177 or 178 of the Local Government Act 1993”.
 - (b) From section 40 (1), omit “Local Government Act 1919” where secondly occurring, insert instead “Local Government Act 1993”.

National Parks and Wildlife Act 1974 No. 80

- (1) Section 11 (**Use of services of officers etc. of Departments etc.**):
- From section 11 (2), omit “the council of an area or county district under the Local Government Act 1919”, insert instead “a council or county council under the Local Government Act 1993”.

Local Government (Consequential Provisions) Act 1993 No. 32

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (2) Section 144 (**Exemption from rates**):

Omit the section.

- (3) Section 155A (**Kosciusko National Park**):

From section 155A, omit “by or under the Local Government Act 1919”, insert instead “constituted by the Local Government Act 1993”.

- (4) Sections 163A, 163B:

Omit section 163A, insert instead:

Application of Local Government Act 1919

163A. Part 12 (Town planning) of the Local Government Act 1919 does not apply to lands reserved or dedicated under this Act.

Application of Local Government Act 1993

163B. Chapter 7 (What are the regulatory functions of councils?) of the Local Government Act 1993 does not apply to lands reserved or dedicated under this Act.

- (5) Schedule 9A (**Management of State Recreation Areas by Trustees**):

From clause 5 (1) (h), omit “the office of member of a council within the meaning of the Local Government Act 1919 or mayor, Lord Mayor or president of an area within the meaning of that Act, and who ceases to hold that office otherwise than in circumstances giving rise to an extraordinary vacancy under section 35 of that Act and otherwise than by reason of the removal of the members of a council under section 86 of that Act”, insert instead “the office of councillor or mayor under the Local Government Act 1993 and who ceases to hold that office otherwise than in circumstances giving rise to a vacancy under section 234 of that Act and otherwise than because of the removal of the councillors of a council under Division 6 of Part 2 of Chapter 9 of that Act”.

Public Health Act 1991 No. 10

- Section 51 (**Registration of mortuaries**):

Omit the section.

Local Government (Consequential Provisions) Act 1993 No. 32

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

Public Works Act 1912 No. 45

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

After the definition of “Constructing Authority”, insert:

“**Council**” means the council of an area under the Local Government Act 1993;

(2) Parts 9 and 10:

After Part 8, insert:

PART 9—NATIONAL WORKS

Declaration of national works

151. (1) The Governor may, by proclamation, declare any road, bridge, ferry, wharf, public reserve or public work of any kind in any area to be a national work.

(2) A national work is, for the purposes of this Act, taken to be an authorised work and the Minister is taken to be the Constructing Authority.

(3) A work may be a national work whether or not it is a new work or an existing work.

Functions of Minister

152. (1) The Minister is to maintain, manage and administer national works.

(2) The Minister has, and may exercise and enjoy, the powers and immunities of a council under the Local Government Act 1993 for the purpose of the construction, control, protection, maintenance and management of national works.

National works may be handed over to councils

153. (1) The Minister, with the agreement of a council, may, by notice published in the Gazette, declare that a national work is handed over, either temporarily or permanently, to a council.

(2) A work which is handed over to a council is to be maintained, managed and administered by the council and ceases to be a national work while it is so maintained, managed and administered.

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

National works etc. may be handed over to Roads and Traffic Authority

154. (1) The Minister, with the agreement of the Roads and Traffic Authority, may, by notice published in the Gazette, declare that:

(a) a road, bridge, ferry or tunnel that is a national work;
or

(b) any other road, bridge, ferry or tunnel that is maintained, managed and administered by the Minister, is handed over, either temporarily or permanently, to the Roads and Traffic Authority.

(2) A road, bridge, ferry or tunnel which is handed over to the Roads and Traffic Authority is to be maintained, managed and administered by the Authority and (in the case of a national work) ceases to be a national work while it is so maintained, managed and administered.

(3) The Roads and Traffic Authority has, and may exercise and enjoy, the powers and immunities of a council under the Local Government Act 1993 for the purpose of the control, protection, maintenance, and management of any road, bridge, ferry or tunnel maintained, managed and administered by it.

(4) The Roads and Traffic Authority, with the agreement of a council, may, by notice published in the Gazette, declare that a road, bridge, ferry or tunnel:

(a) that is maintained, managed and administered by the Authority pursuant to this section; and

(b) that was, immediately before it was handed over to the Authority, a national work,

is handed over, either temporarily or permanently, to a council.

(5) A work which is handed over to a council is to be maintained, managed and administered by the council.

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued***Resolution of disputes**

155. (1) Any dispute arising under section 153 or 154 between the Minister and a public authority may be resolved by agreement between the Minister and the Minister administering the Act under which the public authority is constituted.

(2) Any dispute arising under section 154 between the Roads and Traffic Authority and a council may be resolved by agreement between the Ministers administering the Acts under which those public authorities are constituted.

(3) If agreement cannot be reached, the dispute is to be resolved by the Premier.

(4) A public authority must comply with any direction arising out of the resolution of the dispute under this section.

Closure of national works

156. The Minister may temporarily or permanently close a national work to the public and may dismantle any structure and dispose of its materials.

Appointment of councils as agents

157. (1) The Minister may appoint a council as the Minister's agent for the care, control and management of a national work.

(2) The council may act as the Minister's agent even if the national work concerned is partly outside the council's area.

(3) A council acting as the Minister's agent may take legal proceedings in its own name to recover penalties for offences relating to a national work.

Regulations

158. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to:

- (a) the construction, control, management, maintenance and protection of national works; and
- (b) the regulation, restriction or suspension of the use by the public of national works; and
- (c) the collection of fees and charges for the use of any national work other than a road or bridge.

Local Government (Consequential Provisions) Act 1993 No. 32

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

Proceedings for offences

159. Proceedings for an offence against a regulation made under this Part are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

PART 10—OTHER MATTERS RELATING TO COUNCILS ETC.

Minister to have certain functions

160. The Minister has, and may exercise and enjoy, the powers and immunities of a council under the Local Government Act 1993, for the following purposes:

- (a) the construction, control, protection, maintenance and management of roads, bridges, ferries, wharves or public works of any kind in the Western Division;
- (b) the construction, and protection during construction, of any works carried out by the Minister for a council.

Minister may construct works etc. on behalf of councils

161. The Minister may, at the request of the Minister for Local Government, erect, construct or carry out for a council, any works necessary or convenient in connection with any works or undertakings that the council might lawfully erect, construct or carry out.

Returned and Services League of Australia (New South Wales Branch) Incorporation Act 1935 No. 39

(1) Section 4A:

After section 4, insert:

The Cenotaph

4A. (1) The League is to be taken to be the guardian of the Cenotaph in Martin Place in the City of Sydney.

(2) The Sydney City Council is required to appoint, as custodian of the Cenotaph, a person nominated by the League.

Local Government (Consequential Provisions) Act 1993 No. 32

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(3) An information or complaint in respect of any offence concerning the Cenotaph may be laid or made by the custodian of the Cenotaph.

(2) Section 5 (**Amendment of Act No. 41, 1919**):

Omit the section.

Stamp Duties Act 1920 No. 47

Second Schedule—General Exemptions from Stamp Duty under Part 3:

- (a) From paragraph (14), omit “a council, county council or urban committee within the meaning of the Local Government Act 1919”, insert instead “a council or county council under the Local Government Act 1993”.
- (b) From paragraph (19), omit “a council, county council or urban committee within the meaning of the Local Government Act 1919, as amended”, insert instead “a council or county council under the Local Government Act 1993”.
- (c) From paragraph (19), omit “or committee” wherever occurring.
- (d) From paragraph (19), omit “within the meaning of the Local Government Act 1919, as amended” where secondly occurring, insert instead:
 - , being:
 - (i) the supply of electricity, gas, liquefied petroleum gas or hydraulic power and the supply and installation of associated fittings and appliances; or
 - (ii) the operation of a coal mine and the supply and distribution of coal; or
 - (iii) the operation of a public transport service; or
 - (iv) the supply of building materials.

Local Government (Consequential Provisions) Act 1993 No. 32

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)

Section 6 (Statutory and Other Offices Remuneration Tribunal):

From section 6 (3), omit “and the Parliamentary Remuneration Tribunal”, insert instead “, the Parliamentary Remuneration Tribunal and the Local Government Remuneration Tribunal”.

Sydney Cove Redevelopment Authority Act 1968 No. 56

Section 19 (General powers of Authority):

From section 19 (1) (f), omit “Division 13A of Part 9 of the Local Government Act 1919”, insert instead “Part 3B of the Traffic Act 1909”.

Teacher Housing Authority Act 1975 No. 27

(1) Section 4 (Definitions):

From the definition of “council” in section 4, omit “Local Government Act 1919”, insert instead “Local Government Act 1993”.

(2) Section 37 (Liability of Authority for rates):

(a) In section 37 (1) (b), after “rate” where firstly occurring, insert “(other than an ordinary rate made under the Local Government Act 1993)”.

(b) Omit section 37 (2) and (3).

Valuation of Land Act 1916 No. 2

(1) Sections 7I, 7J, 7K:

After section 7H, insert:

Mine in 2 or more areas

7I. (1) If a mine is situated partly in one area and partly in another, the mine is to be valued as a whole, and the land value, improved value and assessed annual value are to be apportioned between the areas as the Valuer-General may direct.

(2) Objection may be made under this Act against any such apportionment.

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued***Mine under sea**

7J. If any part of a mine is under the sea or under the tidal waters of an estuary or harbour, the part is to be valued with and as part of the mine, even though the overlying land and water are not within the boundaries of any area.

Surface of a mine

7K. If any part of a mine is separately occupied by a person for a purpose other than mining, the part is taken to be distinct from the mine, and is to be valued and rated accordingly.

(2) Section 48 (Furnishing valuation lists to authorities):

(a) From section 48 (2), omit “six years after a valuation list is first furnished hereunder”, insert instead “4 years”.

(b) After section 48 (2), insert:

(3) Despite subsection (2), the Valuer-General may furnish a valuation list for an area within 6 years if the Valuer-General is of the opinion that there has been so little movement in values in the area that a valuation within 4 years is not warranted.

(3) Section 58C (Definitions):

(a) From the definition of “mixed development land” in section 58C (1), omit “one building”, insert instead “one or more buildings”.

(b) From section 58C (2), omit “a single building”, insert instead “one or more buildings”.

(c) In section 58C (2), after “the building”, insert “or buildings”.

(d) From section 58C (3), omit “one building” wherever occurring, insert instead “one or more buildings”.

(e) In section 58C (3), after “building” where lastly occurring, insert “or buildings”.

Local Government (Consequential Provisions) Act 1993 No. 32

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(4) Section 58F:

Before section 59, insert:

Land rating factors—certain classes of lease from the Crown

58F. (1) This section applies to land (not being land in the Western Division):

- (a) held under an annual lease, occupation licence, preferential occupation licence, permissive occupancy, special lease (not being a special lease in perpetuity) or permit to enclose a road or watercourse granted under the Crown Lands Consolidation Act 1913; or
- (b) held under a permissive occupancy or permit to enclose a road granted under the Closer Settlement Acts; or
- (c) held under any lease under the Forestry Act 1916; or
- (d) held under a lease or licence, or permit to enclose a road or watercourse, granted under Part 4 of the Crown Lands Act 1989; or
- (e) held under a lease granted under the Prickly Pear Act 1987; or
- (f) held under a lease under section 6 of the Irrigation Act 1912; or
- (g) owned by or vested in the Crown or any person on behalf of the Crown and which is the subject of a lease of a prescribed class or description.

(2) The Valuer-General must, when furnishing a general valuation list in which is included a valuation of any land to which this section applies or a supplementary valuation list in which is included a valuation of any such land, furnish:

- (a) a statement of a land rating factor; and
- (b) if the valuation includes a valuation of the improved capital value, an improved rating factor determined in respect of any such land in accordance with subsection (3).

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(3) The rating factor in respect of any land to which this section applies is to be determined as follows:

- (a) in the case of the land rating factor, that factor is an amount equal to the land value of the land to which this section applies reduced in accordance with paragraph (c);
- (b) in the case of the improved rating factor, that factor is an amount equal to the improved capital value of the land to which this section applies reduced in accordance with paragraph (c);
- (c) the amounts referred to in paragraphs (a) and (b) are to be reduced by an amount, as determined by the Valuer-General, that would, had the restrictions on the disposition or manner of use that apply to that land by reason of its being the subject of a lease referred to in subsection (1) applied to the land at the time when the valuation was made or to which it relates, have been attributable to those restrictions.

(4) Any rating factor determined under this section is to be shown on the notice of valuation and objection may be made to a rating factor as if it were a valuation.

(5) Without limiting the generality of subsection (4), an objection may be made by a rateable person (within the meaning of the Local Government Act 1993) on the ground that no rating factor has been determined for the land in respect of which the person is rateable.

Water Board Act 1987 No. 141**(1) Section 24 (Definitions):**

From paragraph (a) of the definition of “approval to which this Division applies”, omit “Part 11 of the Local Government Act 1919”, insert instead “Part 1 of Chapter 7 of the Local Government Act 1993”.

(2) Section 40 (Sale of land for unpaid amounts):

- (a) From section 40 (1) and (2), omit “sections 602–613 of the Local Government Act 1919” wherever occurring, insert instead “Division 5 of Part 2 of Chapter 17 of the Local Government Act 1993”.

Local Government (Consequential Provisions) Act 1993 No. 32

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (b) From section 40 (2) (b), omit “town or shire clerk”, insert instead “general manager or public officer”.
- (c) Omit section 40 (2) (c).
- (d) From section 40 (2) (d), omit “an officer of a council”, insert instead “a member of staff of a council”.
- (3) Section 56 (**Council rates**):
Omit the section.
- (4) Schedule 3:
From clause 10 in Part 1, omit “Local Government Act 1919”, insert instead “Local Government Act 1993”.
- (5) Schedule 5 (**Provisions relating to the members of the Forum**):
 - (a) From clause 1 (1) (a) (i), omit “cities, municipalities and shires”, insert instead “local government areas”.
 - (b) Omit clause 1 (1) (a) (ii), insert instead:
 - (ii) is a councillor of a council (within the meaning of the Local Government Act 1993) within the region represented; and
 - (c) Omit clause 6 (1) (d), insert instead:
 - (d) being a member of the Forum because he or she was chosen by the Minister as a councillor of a council (within the meaning of the Local Government Act 1993), ceases to be a councillor; or

Water Supply Authorities Act 1987 No. 140

- (1) Section 24 (**Definitions**):
From paragraph (a) of the definition of “approval to which this Division applies”, omit “Part 11 of the Local Government Act 1919”, insert instead “Part 1 of Chapter 7 of the Local Government Act 1993”.
- (2) Section 27 (**Issue of compliance certificate**):
 - (a) At the end of section 27 (1) (c), insert:
; or
 - (d) the Authority may serve a notice on the developer requiring the developer:

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (i) to pay to the Authority such amount as is specified in the notice towards the cost of such works as may be specified in the notice, being existing works or projected works, or both; and
 - (ii) to construct works to serve the development.
 - (b) After section 27 (1), insert:
 - (1A) The Authority, in the exercise of a function under subsection (1) (b), must have regard to the amount and purpose of any payment required to be made by the developer as a condition of an approval to which this Division applies.
 - (1B) In calculating an amount for the purposes of subsection (1) (d) (i):
 - (a) the value of the existing works and the estimated cost of projected works may be taken into consideration; and
 - (b) the amount of any government subsidy or similar payment is not to be deducted from the relevant value or cost of the works; and
 - (c) consideration is to be given to any guidelines issued for the time being for the purposes of this Division by the Minister for Public Works.
 - (c) In section 27 (4), after “subsection (1) (b) (iii)”, insert “or (d) (i)”.
 - (d) After section 27 (4), insert:
 - (5) Any works constructed under a notice served by the Authority under subsection (1) (d) are the property of the Authority.
- (3) Section 27A:
- After section 27, insert:
- Payment of amounts under s. 27 by the Crown**
- 27A. (1) If, under section 27, an Authority requires the Crown to pay an amount or enter into an additional works agreement, or both, and the Crown disputes the requirement, the Crown may seek a determination from the Minister for Planning as to whether such a requirement should be made and, if so, in what terms.

Local Government (Consequential Provisions) Act 1993 No. 32

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(2) The Minister for Planning may make a determination concerning the requirement as if the Minister were the Authority.

(3) The determination of the Minister for Planning is final and is taken to be the determination of the Authority.

(4) Section 40 (**Sale of land for unpaid amounts**):

- (a) From section 40 (1) and (2), omit “sections 602–613 of the Local Government Act 1919” wherever occurring, insert instead “Division 5 of Part 2 of Chapter 17 of the Local Government Act 1993”.
- (b) From section 40 (2) (b), omit “town or shire clerk”, insert instead “general manager or public officer”.
- (c) Omit section 40 (2) (c).
- (d) From section 40 (2) (d), omit “an officer of a council”, insert instead “a member of staff of a council”.

(5) Section 56 (**Council rates**):

Omit the section.

(6) Schedule 4 (**Cobar Water Board**):

Omit clause 6, insert instead:

Catchment district

6. The catchment district for the Board is that proclaimed (or taken to have been proclaimed) under section 128 of the Local Government Act 1993.

(7) Schedule 6, Part 1 (**Land exempt from service charges**):

- (a) From paragraph 10, omit “Local Government Act 1919”, insert instead “Local Government Act 1993”.
- (b) From paragraph 11 (c), omit “the council of the city, municipality or shire”, insert instead “the council of the local government area”.
- (c) Omit paragraph 14, insert instead:
 - 14. Sports grounds, gardens or children’s playgrounds provided by a council under the Local Government Act 1993.

Local Government (Consequential Provisions) Act 1993 No. 32

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 5)

Current development consents under the Environmental Planning and Assessment Act 1979

1. A development consent under the Environmental Planning and Assessment Act 1979 that has not lapsed before the commencement of Schedule 2 (8) lapses 5 years after the date from which the development consent operated, subject to section 99 (4) and (4A) of the Environmental Planning and Assessment Act 1979, as amended by this Act.

Further amendment or repeal of Environmental Planning and Assessment Regulation 1980

2. The amendment made by this Act to the Environmental Planning and Assessment Regulation 1980 does not affect the future amendment or repeal of that Regulation.

Publication of information concerning affairs of councils and county councils

3. The general manager of a council or county council must, in accordance with section 14 of the Freedom of Information Act 1989, as amended by this Act:

- (a) cause the first up-to-date statement of the affairs of the agency to be published within 12 months after the amendment to that section commences; and
- (b) cause the first summary of those affairs to be published within 6 months after that commencement.

Regulations relating to Kosciuszko National Park

4. A regulation made for the purposes of section 155A of the National Parks and Wildlife Act 1974 and in force immediately before the amendment of that section by this Act is taken to be made for the purposes of that section, as amended by this Act.

Period within which the Valuer-General must furnish a valuation list

5. If a valuation list for an area was last furnished by the Valuer-General 4 or more years before the commencement of the amendment made to section 48 of the Valuation of Land Act 1916 by this Act, the Valuer-General may, in furnishing the first valuation list for the area after that commencement, comply with that section as if it had not been amended by this Act.

Local Government (Consequential Provisions) Act 1993 No. 32

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued

Dismissal of Sydney City Council

6. The Minister administering the Local Government Act 1919 or the Local Government Act 1993 (or any other Minister) must not, at any time before the next ordinary election of members of the Sydney City Council, recommend to the Governor the dismissal of the Council, or all or any of its members, except on a resolution of the Legislative Assembly and a resolution of the Legislative Council following the consideration of a report of a public inquiry held under the relevant Act.

[Minister's second reading speech made in—
Legislative Assembly on 11 March 1993
Legislative Council on 20 May 1993]

THIRD PRINT

**LOCAL GOVERNMENT (CONSEQUENTIAL PROVISIONS)
BILL 1993**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Repeals
4. Amendment of instruments
5. Savings, transitional and other provisions

SCHEDULE 1—REPEALS

SCHEDULE 2—AMENDMENT OF INSTRUMENTS

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Clerk of the Legislative Assembly.

Legislative Assembly

NEW SOUTH WALES



Act No. , 1993

An Act to repeal certain enactments; to amend certain other enactments; and to enact provisions consequential on the enactment of the Local Government Act 1993.

Local Government (Consequential Provisions) 1993

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Local Government (Consequential Provisions) Act 1993.

5 Commencement

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

(2) Clause 6 of Schedule 3 commences on the date of assent to this Act.

10 Repeals

3. (1) Each instrument specified in Schedule 1 is repealed.

(2) Different days may be appointed for the commencement of subsection (1) for the purpose of repealing, on different days, different provisions of an instrument specified in Schedule 1 or an instrument that
15 may be made under such an instrument.

Amendment of instruments

4. Each instrument specified in Schedule 2 is amended as set out in that Schedule.

Savings, transitional and other provisions

20 5. Schedule 3 has effect.

SCHEDULE 1—REPEALS

(Sec. 3)

City of Sydney Improvement Act (1879) 42 Vic. No. 25

Local Government Act 1919 No. 41 (other than Parts 12, 18, 22 and 28)

25 City of Newcastle Act 1986 No. 43

Ordinances made or deemed to have been made under the Local Government Act 1919 and in force at the commencement of this Schedule (other than Ordinances Nos. 30, 30A, 30C, 30D, 32, 33, 34A, 49, 50, 50A and 59)

SCHEDULE 2—AMENDMENT OF INSTRUMENTS

(Sec. 4)

City of Sydney Act 1988 No. 48

- (1) Section 2 (**Commencement**):
Omit section 2 (3). 5
- (2) Section 3 (**Principal Act**):
From section 3 (1), omit "1919", insert instead "1993".
- (3) Section 4 (**Definitions**):
Omit the definition of "South Sydney Council".
- (4) Part 2 (**Constitution of the Cities of Sydney and South Sydney**): 10
Omit the Part.
- (5) Sections 22 (**Compulsory voting at elections and polls**), 34 (**Members of the Planning Committee**):
Omit "aldermen" wherever occurring, insert instead "councillors". 15
- (6) Section 33 (**The Planning Committee**):
From section 33 (5), omit "section 654", insert instead "section 742".
- (7) Section 34 (**Members of the Planning Committee**): 20
After section 34 (2), insert:
(3) The City Council may appoint an alternate for each of the members of the Planning Committee referred to in subsection (1) (c).
- (8) Section 52 (**Regulations**): 25
Omit the section.
- (9) Sections 54–56:
Omit the sections.
- (10) Section 58 (**Regulations**):
At the end of section 58, insert: 30
(2) In particular, the regulations may make provision for or with respect to the following:

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (a) the form in which applications under Division 4 of Part 4 may be made;
 - (b) the fees to be lodged with applications;
 - 5 (c) the determination of applications;
 - (d) the recording of determinations;
 - (e) the notification of the making of determinations;
 - (f) the giving of effect to determinations;
 - (g) the public availability of determinations.
- 10 (11) Schedule 1 (**The Planning Committee**):
 - (a) From clauses 2 and 4, omit “an alderman” wherever occurring, insert instead “a councillor”.
 - (b) Omit clause 10 (1), insert instead:
 - 15 (1) Chapter 14 (Part 1 excepted) of the Principal Act applies to and in respect of:
 - (a) a member of the Planning Committee in the same way as it applies to and in respect of a councillor; and
 - (b) a member of a subcommittee of the Planning Committee in the same way as it applies to and in respect of a member of a council committee; and
 - 20 (c) a meeting of the Planning Committee in the same way as it applies to and in respect of a meeting of a council; and
 - 25 (d) a meeting of a subcommittee of the Planning Committee in the same way as it applies to and in respect of a meeting of a council committee.

Crown Lands Act 1989 No. 6

- 30 (1) Sections 75 (**Definitions**), 76 (**Vesting of certain land in councils**), 138 (**Certain land may be declared to be Crown land**):
 - Omit “Local Government Act 1919” wherever occurring, insert instead “Local Government Act 1993”.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (2) Section 77 (**Effect of vesting**):
 From section 77 (1) (a), omit “Local Government Act 1919 by the council subject to the operation of section 518 (2) and (5) of that Act”, insert instead “Local Government Act 1993 and to have been classified as community land under that Act”. 5
- (3) Section 78 (**Definitions**):
 Omit “Local Government Act 1919” wherever occurring, insert instead “Local Government Act 1993”. 10
- (4) Section 98 (**Application of Local Government Act where a council manages a reserve trust**):
 (a) Omit “Local Government Act 1919” wherever occurring, insert instead “Local Government Act 1993”.
 (b) After section 98 (1), insert: 15
 (1A) However, the trust has no power to classify the public reserve or any part of it as operational land under the Local Government Act 1993.
- (5) Section 158 (**Removal of unauthorised structures**):
 After “1919” wherever occurring, insert “, Part 1 of Chapter 7 of the Local Government Act 1993”. 20
- (6) Schedule 3 (**Provisions relating to the members of a trust board**):
 (a) Omit clause 6 (3), insert instead:
 (3) Subclause (2) does not apply if the member ceased to hold office: 25
 (a) in circumstances giving rise to a vacancy in civic office under section 234 of the Local Government Act 1993; or
 (b) because of a declaration under section 255 of that Act. 30
 (b) Omit the definition of “local government office” from clause 9, insert instead:
 “local government office” means the office of a councillor (including a mayor) under the Local Government Act 1993. 35

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

Darling Harbour Authority Act 1984 No. 103

Section 59 (Application of certain legislation within Development Area):

- 5 From section 59 (1) (b) and (3) (b), omit “sections 270L and 277 (3) (b) and” wherever occurring.

Environmental Offences and Penalties Act 1989 No. 150

Section 8F (Littering):

- 10 From section 8F (3) (a) (ii), omit “Local Government Act 1919”, insert instead “Local Government Act 1993”.

Environmental Planning and Assessment Act 1979 No. 203

(1) Section 77 (Making of development applications):

After section 77 (3A), insert:

- 15 (3B) The consent authority may reject a development application within 7 days after its receipt if it is not clear as to the development consent sought or if it is not easily legible. An application so rejected is taken not to have been made and the application fee is to be refunded.

(2) Section 91 (Determination of development application):

- 20 (a) From section 91 (3) (h), omit “section 94”, insert instead “section 91AA, 91AB or 94”.

(b) After section 91 (3), insert:

- 25 (3A) A consent may be granted subject to a condition that a specified aspect of the development that is ancillary to the core purpose of the development is to be carried out to the satisfaction of the consent authority or a person specified by the consent authority.

(3) Sections 91AA, 91AB:

After section 91, insert:

30 **“In principle” consent**

91AA. (1) A development consent may be granted subject to a condition that the consent is not to operate until the applicant satisfies the consent authority as to any matter

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

specified in the condition. Nothing in this Act prevents a person from doing such things as may be necessary to comply with the condition.

(2) Such a consent must be clearly identified as an “in principle” consent (whether by the use of that expression or by reference to this section or otherwise). 5

(3) An “in principle” consent must clearly distinguish conditions concerning matters as to which the consent authority must be satisfied before the consent can operate from any other conditions. 10

(4) A consent authority may specify the period in which the applicant must produce evidence to the consent authority sufficient to enable it to be satisfied as to those matters.

(5) The applicant may produce evidence to the consent authority sufficient to enable it to be satisfied as to those matters and, if the consent authority has specified a period for the purpose, the evidence must be produced within that period. 15

(6) If the applicant produces evidence in accordance with this section, the consent authority must notify the applicant whether or not it is satisfied as to the relevant matters. If the consent authority has not notified the applicant within the period of 28 days after the applicant’s evidence is produced to it, the consent authority is, for the purposes only of section 97, taken to have notified the applicant that it is not satisfied as to those matters on the date on which that period expires. 20

Staged development

91AB. (1) A development consent may be granted:

- (a) for the development for which the consent is sought; or 30
- (b) for that development, except for a specified part or aspect of that development; or
- (c) for a specified part or aspect of that development.

(2) Such a development consent may be granted subject to a condition that the development or the specified part or aspect of the development, or any thing associated with the development or the carrying out of the development, must be the subject of another development consent. 35

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(4) Section 92:

Omit the section, insert instead:

5 **Notice to applicant of determination of development application**

92. (1) The consent authority (or the Minister in the case of a determination by the Minister under section 91A) must give notice of the determination of the development application in the prescribed form and manner.

10 (2) The date of the determination and the date from which the development consent operates (if development consent is granted) must be endorsed, as prescribed, on the notice.

15 (3) In the case of a development consent granted subject to a condition that the consent is not to operate until the applicant satisfies the consent authority as to any matter specified in the condition:

(a) the date from which the consent operates must not be endorsed on the notice; and

20 (b) if the applicant satisfies the consent authority as to the matter, the consent authority must give notice to the applicant, in the prescribed form and manner, of the date from which the consent operates.

25 (4) If the determination is made by the granting of consent subject to conditions or by the refusing of consent, the notice of the determination must:

(a) indicate the reasons for the imposition of the conditions or the refusal; and

(b) notify the applicant of the provisions of this Act conferring a right of appeal against the determination.

30 (5) Section 93 (**Date from which consent operates**):

(a) From section 93, omit “under section 91” wherever occurring.

(b) From section 93 (1), omit “, as prescribed,” wherever occurring.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (c) After section 93 (5), insert:
 - (6) A development consent in respect of a development application that is taken to have been determined under section 91A operates from the date on which it is taken to have been determined. 5
- (6) Section 94 (**Payment towards provision or improvement of amenities or services**):
 - After section 94 (8), insert:
 - (9) This section does not apply to public amenities or public services comprising water supply or sewerage works. 10
- (7) Section 97 (**Appeal by an applicant**):
 - (a) After section 97 (1), insert:
 - (1A) An applicant who is dissatisfied with a decision that a consent authority is not satisfied as to a matter, being a matter as to which it must be satisfied before an “in principle” consent under section 91AA can operate, may appeal to the Court within 12 months after the consent authority notifies the applicant of its decision. 15
 - (b) Omit “subsection (1)” wherever occurring, insert instead “this section”. 20
- (8) Section 99 (**Lapsing of consent**):
 - Omit section 99 (1)–(4B), insert instead:
 - (1) A development consent lapses:
 - (a) 5 years after the date from which it operates, except as provided by paragraph (b); or 25
 - (b) in the case of a development consent that is subject to a condition under section 91AB (2), 5 years after the date from which the initial development consent operates, or 2 years after the date from which a later or the latest development consent granted in accordance with the condition operates, whichever is the longer. 30
 - (2) A consent authority, in granting development consent, may vary either or both of the periods referred to in subsection (1), despite that subsection. 35

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(3) Such a variation may not be made so as to cause:

(a) a development consent to erect or demolish a building or to subdivide land to lapse within 2 years after the date from which the consent operates; or

(b) a development consent of a kind prescribed by regulation to lapse within the period prescribed by regulation in relation to the consent.

(4) Development consent for:

(a) the erection of a building; or

(b) the subdivision of land; or

(c) the carrying out of a work,

does not lapse if building, engineering or construction work relating to the building, subdivision or work is physically commenced on the land to which the consent applies before the date on which the consent would otherwise lapse under this section.

(4A) Development consent for development other than that referred to in subsection (4) does not lapse if the use of any land, building or work the subject of that consent is actually commenced before the date on which the consent would otherwise lapse under this section.

(4B) If, in granting a development consent, the consent authority reduces the period referred to in subsection (1) (a) to less than 5 years, the applicant or any other person entitled to act on the consent may apply to the consent authority, before the period expires, for an extension of 1 year.

(4C) The consent authority may grant the extension if satisfied that the applicant has shown good cause.

(4D) A person making an application under subsection (4B) who is dissatisfied with the determination of the application or the failure of the consent authority to determine the application within 40 days after it is made, may, except where the application is made in respect of a consent granted by the Minister under section 101, appeal to the Court, and the Court may determine the appeal.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (4E) An extension of 1 year granted under this section commences to run from the later of the following:
- (a) the date on which the consent would have elapsed but for the extension; 5
 - (b) the date on which the consent authority granted the extension or, if the Court has allowed the extension in determining an appeal, the date on which the Court determined the appeal.
- (9) Section 101 (**Determination of development applications by the Minister**): 10
- In section 101 (8), after “91”, insert “and sections 91AA and 91AB”.
- Environmental Planning and Assessment Regulation 1980**
- Clause 41F (**Structure and subject-matter of plan**): 15
- At the end of clause 41F, insert:
- (2) In determining the contribution rates for different types of development, the council must take into consideration conditions that may be imposed under section 97 (1) (b) of the Local Government Act 1993. 20
- Freedom of Information Act 1989 No. 5**
- (1) Section 6 (**Definitions**):
- (a) Omit the definition of “local authority” in section 6 (1), insert instead: 25

“**local authority**” means a council or county council within the meaning of the Local Government Act 1993;
 - (b) From paragraph (d) of the definition of “principal officer” in section 6 (1), omit “Mayor, President or Chairman, as the case may be,”, insert instead “general manager”.
- (2) Section 13 (**Application of Part**): 30
- Omit the section.
- (3) Section 14 (**Publication of information concerning affairs of agencies**):
- (a) In section 14 (1), after “agency” where firstly occurring, insert “(other than a local authority)”. 35

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(b) After section 14 (1), insert:

5 (1A) The general manager of a local authority has, in relation to the local authority, the same functions under subsection (1) as the responsible Minister has in relation to an agency.

(4) Section 16 (**Right of access to agencies' documents**):

Omit section 16 (2).

Hunter Water Board (Corporatisation) Act 1991 No. 53

10 (1) Section 28 (**Corporation not liable to pay annual charge on pipes etc.**):

Omit "Section 171 of the Local Government Act 1919", insert instead "Section 611 of the Local Government Act 1993".

15 (2) Section 48 (**Definitions**):

Omit paragraph (a) of the definition of "approval" in section 48 (1), insert instead:

(a) an approval under Part 1 of Chapter 7 of the Local Government Act 1993 for the erection of a building; or

20 (3) Section 51 (**Consent authority to notify Corporation of certain applications etc.**):

25 From section 51 (1), omit "a building application under section 311 of the Local Government Act 1919", insert instead "an application for approval to erect a building under Part 1 of Chapter 7 of the Local Government Act 1993".

(4) Section 70 (**Regulations**):

Omit section 70 (5) (d), insert instead:

30 (d) charges on land and the recovery of amounts charged on land, including applying the provisions (with or without modification) of Divisions 4 and 5 of Part 2 of Chapter 17 of the Local Government Act 1993.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

Justices Act 1902 No. 27

- (1) Section 63 (**Manner of service of summons**):
 Omit section 63 (2A) (c), insert instead:
 (c) as a councillor or employee of a council within the meaning of the Local Government Act 1993; 5
- (2) Section 75B (**Ex parte procedure for certain offences**):
 From section 75B (1) (c), omit "Local Government Act 1919", insert instead "Local Government Act 1993".
- (3) Section 100I (**Definitions**): 10
 From paragraph (a) of the definition of "penalty notice" in section 100I (1), omit the matter relating to the Local Government Act 1919, insert instead:
 Local Government Act 1993, section 679;

Land and Environment Court Act 1979 No. 204 15

- (1) Section 16 (**Jurisdiction of the Court generally**):
 After section 16 (1), insert:
 (1A) The Court also has jurisdiction to hear and dispose of any matter not falling within its jurisdiction under any other provision of this Act or under any other Act, being a matter that is ancillary to a matter that falls within its jurisdiction under any other provision of this Act or under any other Act. 20
- (2) Section 18 (**Class 2—local government and miscellaneous appeals**):
 Omit section 18 (a), insert instead: 25
 (a) appeals or objections under sections 82, 176, 177, 178, 180, 182, 185 and 611 of the Local Government Act 1993;
- (3) Section 19 (**Class 3—land tenure, valuation, rating and compensation matters**): 30
 Omit section 19 (d), insert instead:
 (d) appeals and applications under sections 179, 181, 526 (and section 526 as applied by section 531), 574, 677 and 730 of the Local Government Act 1993;

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (4) Section 20 (**Class 4—environmental planning and protection civil enforcement**):
- 5 (a) Omit section 20 (1) (d), insert instead:
- (d) proceedings under sections 673 and 674 of the Local Government Act 1993;
- (b) From section 20 (3) (a), omit “Part 7, 11, 12, 12A or 12B of the Local Government Act 1919;”, insert instead “Part 2 of Chapter 6, Chapter 7 or Chapter 15 of the Local Government Act 1993;”.
- 10
- (5) Section 21 (**Class 5—environmental planning and protection summary enforcement**):
- Omit section 21 (g), insert instead:
- 15 (g) proceedings under section 691 of the Local Government Act 1993;
- (6) Section 33 (**Exercise of jurisdictions in the Divisions**):
- After section 33 (2), insert:
- (3) The Court’s jurisdiction under section 16 (1A) is to be exercised by a Judge, but this subsection does not prevent a Judge from being assisted by one or more assessors in accordance with section 37.
- 20
- (7) Section 40 (**Additional powers of Court—provision of easements**):
- 25 (a) From section 40 (1), omit “or section 317L or 341 of the Local Government Act 1919”, insert instead “or section 176, 177 or 178 of the Local Government Act 1993”.
- (b) From section 40 (1), omit “Local Government Act 1919” where secondly occurring, insert instead “Local Government Act 1993”.
- 30 **National Parks and Wildlife Act 1974 No. 80**
- (1) Section 11 (**Use of services of officers etc. of Departments etc.**):
- From section 11 (2), omit “the council of an area or county district under the Local Government Act 1919”, insert instead “a council or county council under the Local Government Act 1993”.
- 35

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (2) Section 144 (**Exemption from rates**):
Omit the section.
- (3) Section 155A (**Kosciusko National Park**):
From section 155A, omit “by or under the Local Government Act 1919”, insert instead “constituted by the Local Government Act 1993”. 5
- (4) Sections 163A, 163B:
Omit section 163A, insert instead:
Application of Local Government Act 1919 10
163A. Part 12 (Town planning) of the Local Government Act 1919 does not apply to lands reserved or dedicated under this Act.
Application of Local Government Act 1993
163B. Chapter 7 (What are the regulatory functions of councils?) of the Local Government Act 1993 does not apply to lands reserved or dedicated under this Act. 15
- (5) Schedule 9A (**Management of State Recreation Areas by Trustees**):
From clause 5 (1) (h), omit “the office of member of a council within the meaning of the Local Government Act 1919 or mayor, Lord Mayor or president of an area within the meaning of that Act, and who ceases to hold that office otherwise than in circumstances giving rise to an extraordinary vacancy under section 35 of that Act and otherwise than by reason of the removal of the members of a council under section 86 of that Act”, insert instead “the office of councillor or mayor under the Local Government Act 1993 and who ceases to hold that office otherwise than in circumstances giving rise to a vacancy under section 234 of that Act and otherwise than because of the removal of the councillors of a council under Division 6 of Part 2 of Chapter 9 of that Act”. 20
25
30
- Public Health Act 1991 No. 10**
Section 51 (**Registration of mortuaries**): 35
Omit the section.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

Public Works Act 1912 No. 45

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

After the definition of "Constructing Authority", insert:

5 **"Council"** means the council of an area under the Local Government Act 1993;

(2) Parts 9 and 10:

After Part 8, insert:

PART 9—NATIONAL WORKS

10 **Declaration of national works**

151. (1) The Governor may, by proclamation, declare any road, bridge, ferry, wharf, public reserve or public work of any kind in any area to be a national work.

15 (2) A national work is, for the purposes of this Act, taken to be an authorised work and the Minister is taken to be the Constructing Authority.

(3) A work may be a national work whether or not it is a new work or an existing work.

Functions of Minister

20 152. (1) The Minister is to maintain, manage and administer national works.

25 (2) The Minister has, and may exercise and enjoy, the powers and immunities of a council under the Local Government Act 1993 for the purpose of the construction, control, protection, maintenance and management of national works.

National works may be handed over to councils

30 153. (1) The Minister, with the agreement of a council, may, by notice published in the Gazette, declare that a national work is handed over, either temporarily or permanently, to a council.

35 (2) A work which is handed over to a council is to be maintained, managed and administered by the council and ceases to be a national work while it is so maintained, managed and administered.

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued***National works etc. may be handed over to Roads and Traffic Authority**

154. (1) The Minister, with the agreement of the Roads and Traffic Authority, may, by notice published in the Gazette, declare that: 5

(a) a road, bridge, ferry or tunnel that is a national work; or

(b) any other road, bridge, ferry or tunnel that is maintained, managed and administered by the Minister, 10

is handed over, either temporarily or permanently, to the Roads and Traffic Authority.

(2) A road, bridge, ferry or tunnel which is handed over to the Roads and Traffic Authority is to be maintained, managed and administered by the Authority and (in the case of a national work) ceases to be a national work while it is so maintained, managed and administered. 15

(3) The Roads and Traffic Authority has, and may exercise and enjoy, the powers and immunities of a council under the Local Government Act 1993 for the purpose of the control, protection, maintenance, and management of any road, bridge, ferry or tunnel maintained, managed and administered by it. 20

(4) The Roads and Traffic Authority, with the agreement of a council, may, by notice published in the Gazette, declare that a road, bridge, ferry or tunnel: 25

(a) that is maintained, managed and administered by the Authority pursuant to this section; and

(b) that was, immediately before it was handed over to the Authority, a national work, 30

is handed over, either temporarily or permanently, to a council.

(5) A work which is handed over to a council is to be maintained, managed and administered by the council.

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued***Resolution of disputes**

5 155. (1) Any dispute arising under section 153 or 154 between the Minister and a public authority may be resolved by agreement between the Minister and the Minister administering the Act under which the public authority is constituted.

10 (2) Any dispute arising under section 154 between the Roads and Traffic Authority and a council may be resolved by agreement between the Ministers administering the Acts under which those public authorities are constituted.

(3) If agreement cannot be reached, the dispute is to be resolved by the Premier.

15 (4) A public authority must comply with any direction arising out of the resolution of the dispute under this section.

Closure of national works

20 156. The Minister may temporarily or permanently close a national work to the public and may dismantle any structure and dispose of its materials.

Appointment of councils as agents

25 157. (1) The Minister may appoint a council as the Minister's agent for the care, control and management of a national work.

(2) The council may act as the Minister's agent even if the national work concerned is partly outside the council's area.

(3) A council acting as the Minister's agent may take legal proceedings in its own name to recover penalties for offences relating to a national work.

Regulations

30 158. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to:

- (a) the construction, control, management, maintenance and protection of national works; and
- 35 (b) the regulation, restriction or suspension of the use by the public of national works; and
- (c) the collection of fees and charges for the use of any national work other than a road or bridge.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

Proceedings for offences

159. Proceedings for an offence against a regulation made under this Part are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone. 5

PART 10—OTHER MATTERS RELATING TO COUNCILS ETC.

Minister to have certain functions 10

160. The Minister has, and may exercise and enjoy, the powers and immunities of a council under the Local Government Act 1993, for the following purposes:

- (a) the construction, control, protection, maintenance and management of roads, bridges, ferries, wharves or public works of any kind in the Western Division; 15
- (b) the construction, and protection during construction, of any works carried out by the Minister for a council.

Minister may construct works etc. on behalf of councils

161. The Minister may, at the request of the Minister for Local Government, erect, construct or carry out for a council, any works necessary or convenient in connection with any works or undertakings that the council might lawfully erect, construct or carry out. 20

Returned and Services League of Australia (New South Wales Branch) Incorporation Act 1935 No. 39 25

(1) Section 4A:

After section 4, insert:

The Cenotaph

4A. (1) The League is to be taken to be the guardian of the Cenotaph in Martin Place in the City of Sydney. 30

(2) The Sydney City Council is required to appoint, as custodian of the Cenotaph, a person nominated by the League.

(3) An information or complaint in respect of any offence concerning the Cenotaph may be laid or made by the custodian of the Cenotaph.

- Stamp Duties Act 1920 No. 47

10 (a) From paragraph (14), omit “a council, county council or
urban committee within the meaning of the Local
Government Act 1919”, insert instead “a council or county
council under the Local Government Act 1993”.

15 (b) From paragraph (19), omit “a council, county council or
urban committee within the meaning of the Local
Government Act 1919, as amended”, insert instead “a
council or county council under the Local Government Act
1993”.

20 (c) From paragraph (19), omit “or committee” wherever
occurring.

(d) From paragraph (19), omit “within the meaning of the Local
Government Act 1919, as amended” where secondly
occurring, insert instead:
 , being:

25 (i) the supply of electricity, gas, liquefied petroleum gas or
hydraulic power and the supply and installation of
associated fittings and appliances; or

(ii) the operation of a coal mine and the supply and
distribution of coal; or

30 (iii) the operation of a public transport service; or
(iv) the supply of building materials.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)

Section 6 (Statutory and Other Offices Remuneration Tribunal):

From section 6 (3), omit “and the Parliamentary Remuneration Tribunal”, insert instead “, the Parliamentary Remuneration Tribunal and the Local Government Remuneration Tribunal”. 5

Sydney Cove Redevelopment Authority Act 1968 No. 56

Section 19 (General powers of Authority): 10

From section 19 (1) (f), omit “Division 13A of Part 9 of the Local Government Act 1919”, insert instead “Part 3B of the Traffic Act 1909”.

Teacher Housing Authority Act 1975 No. 27

(1) Section 4 (Definitions): 15

From the definition of “council” in section 4, omit “Local Government Act 1919”, insert instead “Local Government Act 1993”.

(2) Section 37 (Liability of Authority for rates):

(a) In section 37 (1) (b), after “rate” where firstly occurring, insert “(other than an ordinary rate made under the Local Government Act 1993)”. 20

(b) Omit section 37 (2) and (3).

Valuation of Land Act 1916 No. 2

(1) Sections 7I, 7J, 7K: 25

After section 7H, insert:

Mine in 2 or more areas

7I. (1) If a mine is situated partly in one area and partly in another, the mine is to be valued as a whole, and the land value, improved value and assessed annual value are to be apportioned between the areas as the Valuer-General may direct. 30

(2) Objection may be made under this Act against any such apportionment.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

Mine under sea

- 5 7J. If any part of a mine is under the sea or under the tidal waters of an estuary or harbour, the part is to be valued with and as part of the mine, even though the overlying land and water are not within the boundaries of any area.

Surface of a mine

- 10 7K. If any part of a mine is separately occupied by a person for a purpose other than mining, the part is taken to be distinct from the mine, and is to be valued and rated accordingly.

(2) Section 48 (**Furnishing valuation lists to authorities**):

- 15 (a) From section 48 (2), omit “six years after a valuation list is first furnished hereunder”, insert instead “4 years”.
- (b) After section 48 (2), insert:
- 20 (3) Despite subsection (2), the Valuer-General may furnish a valuation list for an area within 6 years if the Valuer-General is of the opinion that there has been so little movement in values in the area that a valuation within 4 years is not warranted.

(3) Section 58C (**Definitions**):

- 25 (a) From the definition of “mixed development land” in section 58C (1), omit “one building”, insert instead “one or more buildings”.
- (b) From section 58C (2), omit “a single building”, insert instead “one or more buildings”.
- (c) In section 58C (2), after “the building”, insert “or buildings”.
- 30 (d) From section 58C (3), omit “one building” wherever occurring, insert instead “one or more buildings”.
- (e) In section 58C (3), after “building” where lastly occurring, insert “or buildings”.

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued***(4) Section 58F:**

Before section 59, insert:

Land rating factors—certain classes of lease from the Crown

5

58F. (1) This section applies to land (not being land in the Western Division):

- (a) held under an annual lease, occupation licence, preferential occupation licence, permissive occupancy, special lease (not being a special lease in perpetuity) or permit to enclose a road or watercourse granted under the Crown Lands Consolidation Act 1913; or 10
- (b) held under a permissive occupancy or permit to enclose a road granted under the Closer Settlement Acts; or 15
- (c) held under any lease under the Forestry Act 1916; or
- (d) held under a lease or licence, or permit to enclose a road or watercourse, granted under Part 4 of the Crown Lands Act 1989; or
- (e) held under a lease granted under the Prickly Pear Act 1987; or 20
- (f) held under a lease under section 6 of the Irrigation Act 1912; or
- (g) owned by or vested in the Crown or any person on behalf of the Crown and which is the subject of a lease of a prescribed class or description. 25

(2) The Valuer-General must, when furnishing a general valuation list in which is included a valuation of any land to which this section applies or a supplementary valuation list in which is included a valuation of any such land, furnish: 30

- (a) a statement of a land rating factor; and
- (b) if the valuation includes a valuation of the improved capital value, an improved rating factor determined in respect of any such land in accordance with subsection (3). 35

(3) The rating factor in respect of any land to which this section applies is to be determined as follows:

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- 5 (a) in the case of the land rating factor, that factor is an amount equal to the land value of the land to which this section applies reduced in accordance with paragraph (c);
- (b) in the case of the improved rating factor, that factor is an amount equal to the improved capital value of the land to which this section applies reduced in accordance with paragraph (c);
- 10 (c) the amounts referred to in paragraphs (a) and (b) are to be reduced by an amount, as determined by the Valuer-General, that would, had the restrictions on the disposition or manner of use that apply to that land by reason of its being the subject of a lease referred to in subsection (1) applied to the land at the time when the valuation was made or to which it relates, have been attributable to those restrictions.
- 15 (4) Any rating factor determined under this section is to be shown on the notice of valuation and objection may be made to a rating factor as if it were a valuation.
- 20 (5) Without limiting the generality of subsection (4), an objection may be made by a rateable person (within the meaning of the Local Government Act 1993) on the ground that no rating factor has been determined for the land in respect of which the person is rateable.
- 25

Water Board Act 1987 No. 141

- (1) Section 24 (**Definitions**):
- 30 From paragraph (a) of the definition of “approval to which this Division applies”, omit “Part 11 of the Local Government Act 1919”, insert instead “Part 1 of Chapter 7 of the Local Government Act 1993”.
- (2) Section 40 (**Sale of land for unpaid amounts**):
- 35 (a) From section 40 (1) and (2), omit “sections 602–613 of the Local Government Act 1919” wherever occurring, insert instead “Division 5 of Part 2 of Chapter 17 of the Local Government Act 1993”.
- (b) From section 40 (2) (b), omit “town or shire clerk”, insert instead “general manager or public officer”.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (c) Omit section 40 (2) (c).
- (d) From section 40 (2) (d), omit “an officer of a council”, insert instead “a member of staff of a council”.
- (3) Section 56 (**Council rates**): 5
Omit the section.
- (4) Schedule 3:
From clause 10 in Part 1, omit “Local Government Act 1919”, insert instead “Local Government Act 1993”.
- (5) Schedule 5 (**Provisions relating to the members of the Forum**): 10
 - (a) From clause 1 (1) (a) (i), omit “cities, municipalities and shires”, insert instead “local government areas”.
 - (b) Omit clause 1 (1) (a) (ii), insert instead:
 - (ii) is a councillor of a council (within the meaning of the Local Government Act 1993) within the region represented; and 15
 - (c) Omit clause 6 (1) (d), insert instead:
 - (d) being a member of the Forum because he or she was chosen by the Minister as a councillor of a council (within the meaning of the Local Government Act 1993), ceases to be a councillor; or 20

Water Supply Authorities Act 1987 No. 140

- (1) Section 24 (**Definitions**):
 - From paragraph (a) of the definition of “approval to which this Division applies”, omit “Part 11 of the Local Government Act 1919”, insert instead “Part 1 of Chapter 7 of the Local Government Act 1993”. 25
- (2) Section 27 (**Issue of compliance certificate**):
 - (a) At the end of section 27 (1) (c), insert:
 - ; or 30
 - (d) the Authority may serve a notice on the developer requiring the developer:

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- 5 (i) to pay to the Authority such amount as is specified in the notice towards the cost of such works as may be specified in the notice, being existing works or projected works, or both; and
- (ii) to construct works to serve the development.
- (b) After section 27 (1), insert:
- 10 (1A) The Authority, in the exercise of a function under subsection (1) (b), must have regard to the amount and purpose of any payment required to be made by the developer as a condition of an approval to which this Division applies.
- (1B) In calculating an amount for the purposes of subsection (1) (d) (i):
- 15 (a) the value of the existing works and the estimated cost of projected works may be taken into consideration; and
- 20 (b) the amount of any government subsidy or similar payment is not to be deducted from the relevant value or cost of the works; and
- (c) consideration is to be given to any guidelines issued for the time being for the purposes of this Division by the Minister for Public Works.
- 25 (c) In section 27 (4), after “subsection (1) (b) (iii)”, insert “or (d) (i)”.
- (d) After section 27 (4), insert:
- (5) Any works constructed under a notice served by the Authority under subsection (1) (d) are the property of the Authority.
- 30 (3) Section 27A:
- After section 27, insert:
- Payment of amounts under s. 27 by the Crown**
- 35 27A. (1) If, under section 27, an Authority requires the Crown to pay an amount or enter into an additional works agreement, or both, and the Crown disputes the requirement, the Crown may seek a determination from the Minister for Planning as to whether such a requirement should be made and, if so, in what terms.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (2) The Minister for Planning may make a determination concerning the requirement as if the Minister were the Authority.
- (3) The determination of the Minister for Planning is final and is taken to be the determination of the Authority. 5
- (4) **Section 40 (Sale of land for unpaid amounts):**
- (a) From section 40 (1) and (2), omit “sections 602–613 of the Local Government Act 1919” wherever occurring, insert instead “Division 5 of Part 2 of Chapter 17 of the Local Government Act 1993”. 10
- (b) From section 40 (2) (b), omit “town or shire clerk”, insert instead “general manager or public officer”.
- (c) Omit section 40 (2) (c).
- (d) From section 40 (2) (d), omit “an officer of a council”, insert instead “a member of staff of a council”. 15
- (5) **Section 56 (Council rates):**
Omit the section.
- (6) **Schedule 4 (Cobar Water Board):**
Omit clause 6, insert instead: 20
Catchment district
6. The catchment district for the Board is that proclaimed (or taken to have been proclaimed) under section 128 of the Local Government Act 1993.
- (7) **Schedule 6, Part 1 (Land exempt from service charges):** 25
- (a) From paragraph 10, omit “Local Government Act 1919”, insert instead “Local Government Act 1993”.
- (b) From paragraph 11 (c), omit “the council of the city, municipality or shire”, insert instead “the council of the local government area”. 30
- (c) Omit paragraph 14, insert instead:
14. Sports grounds, gardens or children’s playgrounds provided by a council under the Local Government Act 1993.

Local Government (Consequential Provisions) 1993

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 5)

Current development consents under the Environmental Planning and Assessment Act 1979

- 5 1. A development consent under the Environmental Planning and Assessment Act 1979 that has not lapsed before the commencement of Schedule 2 (7) lapses 5 years after the date from which the development consent operated, subject to section 99 (4) and (4A) of the Environmental Planning and Assessment Act 1979, as amended by this Act.

10 **Further amendment or repeal of Environmental Planning and Assessment Regulation 1980**

2. The amendment made by this Act to the Environmental Planning and Assessment Regulation 1980 does not affect the future amendment or repeal of that Regulation.

Publication of information concerning affairs of councils and county councils

- 15 3. The general manager of a council or county council must, in accordance with section 14 of the Freedom of Information Act 1989, as amended by this Act:
- (a) cause the first up-to-date statement of the affairs of the agency to be published within 12 months after the amendment to that section commences; and
- 20 (b) cause the first summary of those affairs to be published within 6 months after that commencement.

Regulations relating to Kosciuszko National Park

4. A regulation made for the purposes of section 155A of the National Parks and Wildlife Act 1974 and in force immediately before the amendment of that section by this Act is taken to be made for the purposes of that section, as amended by this Act.

25 **Period within which the Valuer-General must furnish a valuation list**

5. If a valuation list for an area was last furnished by the Valuer-General 4 or more years before the commencement of the amendment made to section 48 of the Valuation of Land Act 1916 by this Act, the Valuer-General may, in furnishing the first valuation list for the area after that commencement, comply with that section as if it had not been
- 30 amended by this Act.

Local Government (Consequential Provisions) 1993

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
*continued***Dismissal of Sydney City Council**

6. The Minister administering the Local Government Act 1919 or the Local Government Act 1993 (or any other Minister) must not, at any time before the next ordinary election of members of the Sydney City Council, recommend to the Governor the dismissal of the Council, or all or any of its members, except on a resolution of the Legislative Assembly and a resolution of the Legislative Council following the consideration of a report of a public inquiry held under the relevant Act.

SECOND PRINT

**LOCAL GOVERNMENT (CONSEQUENTIAL PROVISIONS)
BILL 1993**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Repeals
4. Amendment of instruments
5. Savings, transitional and other provisions

SCHEDULE 1—REPEALS

SCHEDULE 2—AMENDMENT OF INSTRUMENTS

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly.

NEW SOUTH WALES



Act No. , 1993

An Act to repeal certain enactments; to amend certain other enactments; and to enact provisions consequential on the enactment of the Local Government Act 1993.

Local Government (Consequential Provisions) 1993

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Local Government (Consequential Provisions) Act 1993.

5 Commencement

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

Repeals

3. (1) Each instrument specified in Schedule 1 is repealed.

10 (2) Different days may be appointed for the commencement of subsection (1) for the purpose of repealing, on different days, different provisions of an instrument specified in Schedule 1 or an instrument that may be made under such an instrument.

Amendment of instruments

15 4. Each instrument specified in Schedule 2 is amended as set out in that Schedule.

Savings, transitional and other provisions

5. Schedule 3 has effect.

SCHEDULE 1—REPEALS

20

(Sec. 3)

City of Sydney Improvement Act (1879) 42 Vic. No. 25

Local Government Act 1919 No. 41 (other than Parts 12, 18, 22 and 28)

City of Newcastle Act 1986 No. 43

25 Ordinances made or deemed to have been made under the Local Government Act 1919 and in force at the commencement of this Schedule (other than Ordinances Nos. 30, 30A, 30C, 30D, 32, 33, 34A, 49, 50, 50A and 59)

SCHEDULE 2—AMENDMENT OF INSTRUMENTS

(Sec. 4)

City of Sydney Act 1988 No. 48

- (1) Section 2 (**Commencement**):
Omit section 2 (3). 5
- (2) Section 3 (**Principal Act**):
From section 3 (1), omit "1919", insert instead "1993".
- (3) Section 4 (**Definitions**):
Omit the definition of "South Sydney Council".
- (4) Part 2 (**Constitution of the Cities of Sydney and South Sydney**): 10
Omit the Part.
- (5) Sections 22 (**Compulsory voting at elections and polls**), 34 (**Members of the Planning Committee**):
Omit "aldermen" wherever occurring, insert instead "councillors". 15
- (6) Section 33 (**The Planning Committee**):
From section 33 (5), omit "section 654", insert instead "section 742".
- (7) Section 34 (**Members of the Planning Committee**): 20
After section 34 (2), insert:
(3) The City Council may appoint an alternate for each of the members of the Planning Committee referred to in subsection (1) (c).
- (8) Section 52 (**Regulations**): 25
Omit the section.
- (9) Sections 54–56:
Omit the sections.
- (10) Section 58 (**Regulations**):
At the end of section 58, insert: 30
(2) In particular, the regulations may make provision for or with respect to the following:

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (a) the form in which applications under Division 4 of Part 4 may be made;
 - (b) the fees to be lodged with applications;
 - 5 (c) the determination of applications;
 - (d) the recording of determinations;
 - (e) the notification of the making of determinations;
 - (f) the giving of effect to determinations;
 - (g) the public availability of determinations.
- 10 (11) Schedule 1 (**The Planning Committee**):
- (a) From clauses 2 and 4, omit “an alderman” wherever occurring, insert instead “a councillor”.
 - (b) Omit clause 10 (1), insert instead:
 - 15 (1) Chapter 14 (Part 1 excepted) of the Principal Act applies to and in respect of:
 - (a) a member of the Planning Committee in the same way as it applies to and in respect of a councillor; and
 - (b) a member of a subcommittee of the Planning Committee in the same way as it applies to and in respect of a member of a council committee; and
 - 20 (c) a meeting of the Planning Committee in the same way as it applies to and in respect of a meeting of a council; and
 - 25 (d) a meeting of a subcommittee of the Planning Committee in the same way as it applies to and in respect of a meeting of a council committee.

Crown Lands Act 1989 No. 6

- (1) Sections 75 (**Definitions**), 76 (**Vesting of certain land in councils**), 138 (**Certain land may be declared to be Crown land**):
- 30 Omit “Local Government Act 1919” wherever occurring, insert instead “Local Government Act 1993”.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (2) Section 77 (**Effect of vesting**):
 From section 77 (1) (a), omit “Local Government Act 1919 by the council subject to the operation of section 518 (2) and (5) of that Act”, insert instead “Local Government Act 1993 and to have been classified as community land under that Act”. 5
- (3) Section 78 (**Definitions**):
 Omit “Local Government Act 1919” wherever occurring, insert instead “Local Government Act 1993”. 10
- (4) Section 98 (**Application of Local Government Act where a council manages a reserve trust**):
 (a) Omit “Local Government Act 1919” wherever occurring, insert instead “Local Government Act 1993”.
 (b) After section 98 (1), insert: 15
 (1A) However, the trust has no power to classify the public reserve or any part of it as operational land under the Local Government Act 1993.
- (5) Section 158 (**Removal of unauthorised structures**):
 After “1919” wherever occurring, insert “, Part 1 of Chapter 7 of the Local Government Act 1993”. 20
- (6) Schedule 3 (**Provisions relating to the members of a trust board**):
 (a) Omit clause 6 (3), insert instead:
 (3) Subclause (2) does not apply if the member ceased to hold office: 25
 (a) in circumstances giving rise to a vacancy in civic office under section 234 of the Local Government Act 1993; or
 (b) because of a declaration under section 255 of that Act. 30
 (b) Omit the definition of “local government office” from clause 9, insert instead:
 “local government office” means the office of a councillor (including a mayor) under the Local Government Act 1993. 35

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

Darling Harbour Authority Act 1984 No. 103

Section 59 (Application of certain legislation within Development Area):

- 5 From section 59 (1) (b) and (3) (b), omit “sections 270L and 277 (3) (b) and” wherever occurring.

Environmental Offences and Penalties Act 1989 No. 150

Section 8F (Littering):

- 10 From section 8F (3) (a) (ii), omit “Local Government Act 1919”, insert instead “Local Government Act 1993”.

Environmental Planning and Assessment Act 1979 No. 203

(1) Section 77 (Making of development applications):

After section 77 (3A), insert:

- 15 (3B) The consent authority may reject a development application within 7 days after its receipt if it is not clear as to the development consent sought or if it is not easily legible. An application so rejected is taken not to have been made and the application fee is to be refunded.

(2) Section 91 (Determination of development application):

- 20 (a) From section 91 (3) (h), omit “section 94”, insert instead “section 91AA, 91AB or 94”.

(b) After section 91 (3), insert:

- 25 (3A) A consent may be granted subject to a condition that a specified aspect of the development that is ancillary to the core purpose of the development is to be carried out to the satisfaction of the consent authority or a person specified by the consent authority.

(3) Sections 91AA, 91AB:

After section 91, insert:

30 **“In principle” consent**

91AA. (1) A development consent may be granted subject to a condition that the consent is not to operate until the applicant satisfies the consent authority as to any matter

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

specified in the condition. Nothing in this Act prevents a person from doing such things as may be necessary to comply with the condition.

(2) Such a consent must be clearly identified as an “in principle” consent (whether by the use of that expression or by reference to this section or otherwise). 5

(3) An “in principle” consent must clearly distinguish conditions concerning matters as to which the consent authority must be satisfied before the consent can operate from any other conditions. 10

(4) A consent authority may specify the period in which the applicant must produce evidence to the consent authority sufficient to enable it to be satisfied as to those matters.

(5) The applicant may produce evidence to the consent authority sufficient to enable it to be satisfied as to those matters and, if the consent authority has specified a period for the purpose, the evidence must be produced within that period. 15

(6) If the applicant produces evidence in accordance with this section, the consent authority must notify the applicant whether or not it is satisfied as to the relevant matters. If the consent authority has not notified the applicant within the period of 28 days after the applicant’s evidence is produced to it, the consent authority is, for the purposes only of section 97, taken to have notified the applicant that it is not satisfied as to those matters on the date on which that period expires. 20 25

Staged development

91AB. (1) A development consent may be granted:

- (a) for the development for which the consent is sought; or 30
- (b) for that development, except for a specified part or aspect of that development; or
- (c) for a specified part or aspect of that development.

(2) Such a development consent may be granted subject to a condition that the development or the specified part or aspect of the development, or any thing associated with the development or the carrying out of the development, must be the subject of another development consent. 35

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(4) Section 92:

Omit the section, insert instead:

5 **Notice to applicant of determination of development application**

92. (1) The consent authority (or the Minister in the case of a determination by the Minister under section 91A) must give notice of the determination of the development application in the prescribed form and manner.

10 (2) The date of the determination and the date from which the development consent operates (if development consent is granted) must be endorsed, as prescribed, on the notice.

15 (3) In the case of a development consent granted subject to a condition that the consent is not to operate until the applicant satisfies the consent authority as to any matter specified in the condition:

(a) the date from which the consent operates must not be endorsed on the notice; and

20 (b) if the applicant satisfies the consent authority as to the matter, the consent authority must give notice to the applicant, in the prescribed form and manner, of the date from which the consent operates.

25 (4) If the determination is made by the granting of consent subject to conditions or by the refusing of consent, the notice of the determination must:

(a) indicate the reasons for the imposition of the conditions or the refusal; and

(b) notify the applicant of the provisions of this Act conferring a right of appeal against the determination.

30 (5) Section 93 (**Date from which consent operates**):

(a) From section 93, omit “under section 91” wherever occurring.

(b) From section 93 (1), omit “, as prescribed,” wherever occurring.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (c) After section 93 (5), insert:
 - (6) A development consent in respect of a development application that is taken to have been determined under section 91A operates from the date on which it is taken to have been determined. 5
- (6) Section 94 (**Payment towards provision or improvement of amenities or services**):
 - After section 94 (8), insert:
 - (9) This section does not apply to public amenities or public services comprising water supply or sewerage works. 10
- (7) Section 97 (**Appeal by an applicant**):
 - (a) After section 97 (1), insert:
 - (1A) An applicant who is dissatisfied with a decision that a consent authority is not satisfied as to a matter, being a matter as to which it must be satisfied before an “in principle” consent under section 91AA can operate, may appeal to the Court within 12 months after the consent authority notifies the applicant of its decision. 15
 - (b) Omit “subsection (1)” wherever occurring, insert instead “this section”. 20
- (8) Section 99 (**Lapsing of consent**):
 - Omit section 99 (1)–(4B), insert instead:
 - (1) A development consent lapses:
 - (a) 5 years after the date from which it operates, except as provided by paragraph (b); or 25
 - (b) in the case of a development consent that is subject to a condition under section 91AB (2), 5 years after the date from which the initial development consent operates, or 2 years after the date from which a later or the latest development consent granted in accordance with the condition operates, whichever is the longer. 30
 - (2) A consent authority, in granting development consent, may vary either or both of the periods referred to in subsection (1), despite that subsection. 35

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(3) Such a variation may not be made so as to cause:

(a) a development consent to erect or demolish a building or to subdivide land to lapse within 2 years after the date from which the consent operates; or

(b) a development consent of a kind prescribed by regulation to lapse within the period prescribed by regulation in relation to the consent.

(4) Development consent for:

(a) the erection of a building; or

(b) the subdivision of land; or

(c) the carrying out of a work,

does not lapse if building, engineering or construction work relating to the building, subdivision or work is physically commenced on the land to which the consent applies before the date on which the consent would otherwise lapse under this section.

(4A) Development consent for development other than that referred to in subsection (4) does not lapse if the use of any land, building or work the subject of that consent is actually commenced before the date on which the consent would otherwise lapse under this section.

(4B) If, in granting a development consent, the consent authority reduces the period referred to in subsection (1) (a) to less than 5 years, the applicant or any other person entitled to act on the consent may apply to the consent authority, before the period expires, for an extension of 1 year.

(4C) The consent authority may grant the extension if satisfied that the applicant has shown good cause.

(4D) A person making an application under subsection (4B) who is dissatisfied with the determination of the application or the failure of the consent authority to determine the application within 40 days after it is made, may, except where the application is made in respect of a consent granted by the Minister under section 101, appeal to the Court, and the Court may determine the appeal.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (4E) An extension of 1 year granted under this section commences to run from the later of the following:
- (a) the date on which the consent would have elapsed but for the extension; 5
 - (b) the date on which the consent authority granted the extension or, if the Court has allowed the extension in determining an appeal, the date on which the Court determined the appeal.
- (9) **Section 101 (Determination of development applications by the Minister):** 10
- In section 101 (8), after “91”, insert “and sections 91AA and 91AB”.
- Environmental Planning and Assessment Regulation 1980**
- Clause 41F (Structure and subject-matter of plan):** 15
- At the end of clause 41F, insert:
- (2) In determining the contribution rates for different types of development, the council must take into consideration conditions that may be imposed under section 97 (1) (b) of the Local Government Act 1993. 20
- Freedom of Information Act 1989 No. 5**
- (1) **Section 6 (Definitions):**
- (a) Omit the definition of “local authority” in section 6 (1), insert instead:
 - “local authority” means a council or county council within the meaning of the Local Government Act 1993; 25
 - (b) From paragraph (d) of the definition of “principal officer” in section 6 (1), omit “Mayor, President or Chairman, as the case may be,”, insert instead “general manager”.
- (2) **Section 13 (Application of Part):** 30
- Omit the section.
- (3) **Section 14 (Publication of information concerning affairs of agencies):**
- (a) In section 14 (1), after “agency” where firstly occurring, insert “(other than a local authority)”. 35

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(b) After section 14 (1), insert:

5. (1A) The general manager of a local authority has, in relation to the local authority, the same functions under subsection (1) as the responsible Minister has in relation to an agency.

(4) Section 16 (**Right of access to agencies' documents**):

Omit section 16 (2).

Hunter Water Board (Corporatisation) Act 1991 No. 53

- 10 (1) Section 28 (**Corporation not liable to pay annual charge on pipes etc.**):

Omit "Section 171 of the Local Government Act 1919", insert instead "Section 611 of the Local Government Act 1993".

- 15 (2) Section 48 (**Definitions**):

Omit paragraph (a) of the definition of "approval" in section 48 (1), insert instead:

(a) an approval under Part 1 of Chapter 7 of the Local Government Act 1993 for the erection of a building; or

- 20 (3) Section 51 (**Consent authority to notify Corporation of certain applications etc.**):

25 From section 51 (1), omit "a building application under section 311 of the Local Government Act 1919", insert instead "an application for approval to erect a building under Part 1 of Chapter 7 of the Local Government Act 1993".

- (4) Section 70 (**Regulations**):

Omit section 70 (5) (d), insert instead:

- 30 (d) charges on land and the recovery of amounts charged on land, including applying the provisions (with or without modification) of Divisions 4 and 5 of Part 2 of Chapter 17 of the Local Government Act 1993.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

Justices Act 1902 No. 27

- (1) Section 63 (**Manner of service of summons**):
 Omit section 63 (2A) (c), insert instead:
 (c) as a councillor or employee of a council within the meaning of the Local Government Act 1993; 5
- (2) Section 75B (**Ex parte procedure for certain offences**):
 From section 75B (1) (c), omit "Local Government Act 1919", insert instead "Local Government Act 1993".
- (3) Section 100I (**Definitions**): 10
 From paragraph (a) of the definition of "penalty notice" in section 100I (1), omit the matter relating to the Local Government Act 1919, insert instead:
 Local Government Act 1993, section 679;

Land and Environment Court Act 1979 No. 204 15

- (1) Section 16 (**Jurisdiction of the Court generally**):
 After section 16 (1), insert:
 (1A) The Court also has jurisdiction to hear and dispose of any matter not falling within its jurisdiction under any other provision of this Act or under any other Act, being a matter that is ancillary to a matter that falls within its jurisdiction under any other provision of this Act or under any other Act. 20
- (2) Section 18 (**Class 2—local government and miscellaneous appeals**):
 Omit section 18 (a), insert instead: 25
 (a) appeals or objections under sections 82, 176, 177, 178, 180, 182, 185 and 611 of the Local Government Act 1993;
- (3) Section 19 (**Class 3—land tenure, valuation, rating and compensation matters**): 30
 Omit section 19 (d), insert instead:
 (d) appeals and applications under sections 179, 181, 526 (and section 526 as applied by section 531), 574, 677 and 730 of the Local Government Act 1993;

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(4) Section 20 (Class 4—environmental planning and protection civil enforcement):

(a) Omit section 20 (1) (d), insert instead:

5 (d) proceedings under sections 673 and 674 of the Local Government Act 1993;

(b) From section 20 (3) (a), omit “Part 7, 11, 12, 12A or 12B of the Local Government Act 1919;”, insert instead “Part 2 of Chapter 6, Chapter 7 or Chapter 15 of the Local Government Act 1993;”.

10

(5) Section 21 (Class 5—environmental planning and protection summary enforcement):

Omit section 21 (g), insert instead:

15 (g) proceedings under section 691 of the Local Government Act 1993;

(6) Section 33 (Exercise of jurisdictions in the Divisions):

After section 33 (2), insert:

(3) The Court’s jurisdiction under section 16 (1A) is to be exercised by a Judge, but this subsection does not prevent a Judge from being assisted by one or more assessors in accordance with section 37.

20

(7) Section 40 (Additional powers of Court—provision of easements):

25 (a) From section 40 (1), omit “or section 317L or 341 of the Local Government Act 1919”, insert instead “or section 176, 177 or 178 of the Local Government Act 1993”.

(b) From section 40 (1), omit “Local Government Act 1919” where secondly occurring, insert instead “Local Government Act 1993”.

30 National Parks and Wildlife Act 1974 No. 80

(1) Section 11 (Use of services of officers etc. of Departments etc.):

From section 11 (2), omit “the council of an area or county district under the Local Government Act 1919”, insert instead “a council or county council under the Local Government Act 1993”.

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Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (2) Section 144 (**Exemption from rates**):
Omit the section.
- (3) Section 155A (**Kosciusko National Park**):
From section 155A, omit “by or under the Local Government Act 1919”, insert instead “constituted by the Local Government Act 1993”. 5
- (4) Sections 163A, 163B:
Omit section 163A, insert instead:
Application of Local Government Act 1919 10
163A. Part 12 (Town planning) of the Local Government Act 1919 does not apply to lands reserved or dedicated under this Act.
Application of Local Government Act 1993
163B. Chapter 7 (What are the regulatory functions of councils?) of the Local Government Act 1993 does not apply to lands reserved or dedicated under this Act. 15
- (5) Schedule 9A (**Management of State Recreation Areas by Trustees**):
From clause 5 (1) (h), omit “the office of member of a council within the meaning of the Local Government Act 1919 or mayor, Lord Mayor or president of an area within the meaning of that Act, and who ceases to hold that office otherwise than in circumstances giving rise to an extraordinary vacancy under section 35 of that Act and otherwise than by reason of the removal of the members of a council under section 86 of that Act”, insert instead “the office of councillor or mayor under the Local Government Act 1993 and who ceases to hold that office otherwise than in circumstances giving rise to a vacancy under section 234 of that Act and otherwise than because of the removal of the councillors of a council under Division 6 of Part 2 of Chapter 9 of that Act”. 20
25
30
- Public Health Act 1991 No. 10**
Section 51 (**Registration of mortuaries**): 35
Omit the section.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

Public Works Act 1912 No. 45

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

After the definition of “Constructing Authority”, insert:

5 “**Council**” means the council of an area under the Local Government Act 1993;

(2) Parts 9 and 10:

After Part 8, insert:

PART 9—NATIONAL WORKS

10 **Declaration of national works**

151. (1) The Governor may, by proclamation, declare any road, bridge, ferry, wharf, public reserve or public work of any kind in any area to be a national work.

15 (2) A national work is, for the purposes of this Act, taken to be an authorised work and the Minister is taken to be the Constructing Authority.

(3) A work may be a national work whether or not it is a new work or an existing work.

Functions of Minister

20 152. (1) The Minister is to maintain, manage and administer national works.

25 (2) The Minister has, and may exercise and enjoy, the powers and immunities of a council under the Local Government Act 1993 for the purpose of the construction, control, protection, maintenance and management of national works.

National works may be handed over to councils

30 153. (1) The Minister, with the agreement of a council, may, by notice published in the Gazette, declare that a national work is handed over, either temporarily or permanently, to a council.

35 (2) A work which is handed over to a council is to be maintained, managed and administered by the council and ceases to be a national work while it is so maintained, managed and administered.

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued***National works etc. may be handed over to Roads and Traffic Authority**

154. (1) The Minister, with the agreement of the Roads and Traffic Authority, may, by notice published in the Gazette, declare that: 5

(a) a road, bridge, ferry or tunnel that is a national work; or

(b) any other road, bridge, ferry or tunnel that is maintained, managed and administered by the Minister, 10

is handed over, either temporarily or permanently, to the Roads and Traffic Authority.

(2) A road, bridge, ferry or tunnel which is handed over to the Roads and Traffic Authority is to be maintained, managed and administered by the Authority and (in the case of a national work) ceases to be a national work while it is so maintained, managed and administered. 15

(3) The Roads and Traffic Authority has, and may exercise and enjoy, the powers and immunities of a council under the Local Government Act 1993 for the purpose of the control, protection, maintenance, and management of any road, bridge, ferry or tunnel maintained, managed and administered by it. 20

(4) The Roads and Traffic Authority, with the agreement of a council, may, by notice published in the Gazette, declare that a road, bridge, ferry or tunnel: 25

(a) that is maintained, managed and administered by the Authority pursuant to this section; and

(b) that was, immediately before it was handed over to the Authority, a national work, 30

is handed over, either temporarily or permanently, to a council.

(5) A work which is handed over to a council is to be maintained, managed and administered by the council.

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued***Resolution of disputes**

5 155. (1) Any dispute arising under section 153 or 154 between the Minister and a public authority may be resolved by agreement between the Minister and the Minister administering the Act under which the public authority is constituted.

10 (2) Any dispute arising under section 154 between the Roads and Traffic Authority and a council may be resolved by agreement between the Ministers administering the Acts under which those public authorities are constituted.

(3) If agreement cannot be reached, the dispute is to be resolved by the Premier.

15 (4) A public authority must comply with any direction arising out of the resolution of the dispute under this section.

Closure of national works

20 156. The Minister may temporarily or permanently close a national work to the public and may dismantle any structure and dispose of its materials.

Appointment of councils as agents

25 157. (1) The Minister may appoint a council as the Minister's agent for the care, control and management of a national work.

(2) The council may act as the Minister's agent even if the national work concerned is partly outside the council's area.

(3) A council acting as the Minister's agent may take legal proceedings in its own name to recover penalties for offences relating to a national work.

Regulations

30 158. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to:

- (a) the construction, control, management, maintenance and protection of national works; and
- 35 (b) the regulation, restriction or suspension of the use by the public of national works; and
- (c) the collection of fees and charges for the use of any national work other than a road or bridge.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

Proceedings for offences

159. Proceedings for an offence against a regulation made under this Part are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone. 5

PART 10—OTHER MATTERS RELATING TO COUNCILS ETC.

Minister to have certain functions 10

160. The Minister has, and may exercise and enjoy, the powers and immunities of a council under the Local Government Act 1993, for the following purposes:

- (a) the construction, control, protection, maintenance and management of roads, bridges, ferries, wharves or public works of any kind in the Western Division; 15
- (b) the construction, and protection during construction, of any works carried out by the Minister for a council.

Minister may construct works etc. on behalf of councils

161. The Minister may, at the request of the Minister for Local Government, erect, construct or carry out for a council, any works necessary or convenient in connection with any works or undertakings that the council might lawfully erect, construct or carry out. 20

Returned and Services League of Australia (New South Wales Branch) Incorporation Act 1935 No. 39 25

(1) Section 4A:

After section 4, insert:

The Cenotaph

4A. (1) The League is to be taken to be the guardian of the Cenotaph in Martin Place in the City of Sydney. 30

(2) The Sydney City Council is required to appoint, as custodian of the Cenotaph, a person nominated by the League.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(3) An information or complaint in respect of any offence concerning the Cenotaph may be laid or made by the custodian of the Cenotaph.

- 5 (2) Section 5 (Amendment of Act No. 41, 1919):
 Omit the section.

Stamp Duties Act 1920 No. 47

Second Schedule—General Exemptions from Stamp Duty under Part 3:

- 10 (a) From paragraph (14), omit “a council, county council or urban committee within the meaning of the Local Government Act 1919”, insert instead “a council or county council under the Local Government Act 1993”.
- 15 (b) From paragraph (19), omit “a council, county council or urban committee within the meaning of the Local Government Act 1919, as amended”, insert instead “a council or county council under the Local Government Act 1993”.
- 20 (c) From paragraph (19), omit “or committee” wherever occurring.
- (d) From paragraph (19), omit “within the meaning of the Local Government Act 1919, as amended” where secondly occurring, insert instead:
 , being:
- 25 (i) the supply of electricity, gas, liquefied petroleum gas or hydraulic power and the supply and installation of associated fittings and appliances; or
- (ii) the operation of a coal mine and the supply and distribution of coal; or
- 30 (iii) the operation of a public transport service; or
- (iv) the supply of building materials.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)

Section 6 (Statutory and Other Offices Remuneration Tribunal):

From section 6 (3), omit “and the Parliamentary Remuneration Tribunal”, insert instead “, the Parliamentary Remuneration Tribunal and the Local Government Remuneration Tribunal”. 5

Sydney Cove Redevelopment Authority Act 1968 No. 56

Section 19 (General powers of Authority): 10

From section 19 (1) (f), omit “Division 13A of Part 9 of the Local Government Act 1919”, insert instead “Part 3B of the Traffic Act 1909”.

Teacher Housing Authority Act 1975 No. 27

(1) Section 4 (Definitions): 15

From the definition of “council” in section 4, omit “Local Government Act 1919”, insert instead “Local Government Act 1993”.

(2) Section 37 (Liability of Authority for rates):

(a) In section 37 (1) (b), after “rate” where firstly occurring, insert “(other than an ordinary rate made under the Local Government Act 1993)”. 20

(b) Omit section 37 (2) and (3).

Valuation of Land Act 1916 No. 2

(1) Sections 7I, 7J, 7K: 25

After section 7H, insert:

Mine in 2 or more areas

7I. (1) If a mine is situated partly in one area and partly in another, the mine is to be valued as a whole, and the land value, improved value and assessed annual value are to be apportioned between the areas as the Valuer-General may direct. 30

(2) Objection may be made under this Act against any such apportionment.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

Mine under sea

- 5 7J. If any part of a mine is under the sea or under the tidal waters of an estuary or harbour, the part is to be valued with and as part of the mine, even though the overlying land and water are not within the boundaries of any area.

Surface of a mine

- 10 7K. If any part of a mine is separately occupied by a person for a purpose other than mining, the part is taken to be distinct from the mine, and is to be valued and rated accordingly.

(2) Section 48 (**Furnishing valuation lists to authorities**):

- 15 (a) From section 48 (2), omit “six years after a valuation list is first furnished hereunder”, insert instead “4 years”.
- (b) After section 48 (2), insert:
- 20 (3) Despite subsection (2), the Valuer-General may furnish a valuation list for an area within 6 years if the Valuer-General is of the opinion that there has been so little movement in values in the area that a valuation within 4 years is not warranted.

(3) Section 58C (**Definitions**):

- 25 (a) From the definition of “mixed development land” in section 58C (1), omit “one building”, insert instead “one or more buildings”.
- (b) From section 58C (2), omit “a single building”, insert instead “one or more buildings”.
- (c) In section 58C (2), after “the building”, insert “or buildings”.
- 30 (d) From section 58C (3), omit “one building” wherever occurring, insert instead “one or more buildings”.
- (e) In section 58C (3), after “building” where lastly occurring, insert “or buildings”.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(4) Section 58F:

Before section 59, insert:

Land rating factors—certain classes of lease from the Crown

5

58F. (1) This section applies to land (not being land in the Western Division):

- (a) held under an annual lease, occupation licence, preferential occupation licence, permissive occupancy, special lease (not being a special lease in perpetuity) or permit to enclose a road or watercourse granted under the Crown Lands Consolidation Act 1913; or 10
- (b) held under a permissive occupancy or permit to enclose a road granted under the Closer Settlement Acts; or 15
- (c) held under any lease under the Forestry Act 1916; or
- (d) held under a lease or licence, or permit to enclose a road or watercourse, granted under Part 4 of the Crown Lands Act 1989; or
- (e) held under a lease granted under the Prickly Pear Act 1987; or 20
- (f) held under a lease under section 6 of the Irrigation Act 1912; or
- (g) owned by or vested in the Crown or any person on behalf of the Crown and which is the subject of a lease of a prescribed class or description. 25

(2) The Valuer-General must, when furnishing a general valuation list in which is included a valuation of any land to which this section applies or a supplementary valuation list in which is included a valuation of any such land, furnish: 30

- (a) a statement of a land rating factor; and
- (b) if the valuation includes a valuation of the improved capital value, an improved rating factor determined in respect of any such land in accordance with subsection (3). 35

(3) The rating factor in respect of any land to which this section applies is to be determined as follows:

*Local Government (Consequential Provisions) 1993***SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued***

- 5 (a) in the case of the land rating factor, that factor is an amount equal to the land value of the land to which this section applies reduced in accordance with paragraph (c);
- (b) in the case of the improved rating factor, that factor is an amount equal to the improved capital value of the land to which this section applies reduced in accordance with paragraph (c);
- 10 (c) the amounts referred to in paragraphs (a) and (b) are to be reduced by an amount, as determined by the Valuer-General, that would, had the restrictions on the disposition or manner of use that apply to that land by reason of its being the subject of a lease referred to in
- 15 subsection (1) applied to the land at the time when the valuation was made or to which it relates, have been attributable to those restrictions.
- (4) Any rating factor determined under this section is to be shown on the notice of valuation and objection may be made to a rating factor as if it were a valuation.
- 20 (5) Without limiting the generality of subsection (4), an objection may be made by a rateable person (within the meaning of the Local Government Act 1993) on the ground that no rating factor has been determined for the land in
- 25 respect of which the person is rateable.

Water Board Act 1987 No. 141**(1) Section 24 (Definitions):**

- 30 From paragraph (a) of the definition of "approval to which this Division applies", omit "Part 11 of the Local Government Act 1919", insert instead "Part 1 of Chapter 7 of the Local Government Act 1993".

(2) Section 40 (Sale of land for unpaid amounts):

- 35 (a) From section 40 (1) and (2), omit "sections 602–613 of the Local Government Act 1919" wherever occurring, insert instead "Division 5 of Part 2 of Chapter 17 of the Local Government Act 1993".
- (b) From section 40 (2) (b), omit "town or shire clerk", insert instead "general manager or public officer".

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (c) Omit section 40 (2) (c).
- (d) From section 40 (2) (d), omit “an officer of a council”, insert instead “a member of staff of a council”.
- (3) Section 56 (**Council rates**): 5
Omit the section.
- (4) Schedule 3:
From clause 10 in Part 1, omit “Local Government Act 1919”, insert instead “Local Government Act 1993”.
- (5) Schedule 5 (**Provisions relating to the members of the Forum**): 10
 - (a) From clause 1 (1) (a) (i), omit “cities, municipalities and shires”, insert instead “local government areas”.
 - (b) Omit clause 1 (1) (a) (ii), insert instead:
 - (ii) is a councillor of a council (within the meaning of the Local Government Act 1993) within the region represented; and 15
 - (c) Omit clause 6 (1) (d), insert instead:
 - (d) being a member of the Forum because he or she was chosen by the Minister as a councillor of a council (within the meaning of the Local Government Act 1993), ceases to be a councillor; or 20

Water Supply Authorities Act 1987 No. 140

- (1) Section 24 (**Definitions**):
 - From paragraph (a) of the definition of “approval to which this Division applies”, omit “Part 11 of the Local Government Act 1919”, insert instead “Part 1 of Chapter 7 of the Local Government Act 1993”. 25
- (2) Section 27 (**Issue of compliance certificate**):
 - (a) At the end of section 27 (1) (c), insert:
 - ; or 30
 - (d) the Authority may serve a notice on the developer requiring the developer:

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- 5 (i) to pay to the Authority such amount as is specified in the notice towards the cost of such works as may be specified in the notice, being existing works or projected works, or both; and
- (ii) to construct works to serve the development.
- (b) After section 27 (1), insert:
- 10 (1A) The Authority, in the exercise of a function under subsection (1) (b), must have regard to the amount and purpose of any payment required to be made by the developer as a condition of an approval to which this Division applies.
- (1B) In calculating an amount for the purposes of subsection (1) (d) (i):
- 15 (a) the value of the existing works and the estimated cost of projected works may be taken into consideration; and
- 20 (b) the amount of any government subsidy or similar payment is not to be deducted from the relevant value or cost of the works; and
- (c) consideration is to be given to any guidelines issued for the time being for the purposes of this Division by the Minister for Public Works.
- 25 (c) In section 27 (4), after “subsection (1) (b) (iii)”, insert “or (d) (i)”.
- (d) After section 27 (4), insert:
- (5) Any works constructed under a notice served by the Authority under subsection (1) (d) are the property of the Authority.
- 30 (3) Section 27A:
- After section 27, insert:
- Payment of amounts under s. 27 by the Crown**
- 27A. (1) If, under section 27, an Authority requires the Crown to pay an amount or enter into an additional works agreement, or both, and the Crown disputes the requirement, the Crown may seek a determination from the Minister for Planning as to whether such a requirement should be made and, if so, in what terms.
- 35

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (2) The Minister for Planning may make a determination concerning the requirement as if the Minister were the Authority.
- (3) The determination of the Minister for Planning is final and is taken to be the determination of the Authority. 5
- (4) **Section 40 (Sale of land for unpaid amounts):**
- (a) From section 40 (1) and (2), omit "sections 602–613 of the Local Government Act 1919" wherever occurring, insert instead "Division 5 of Part 2 of Chapter 17 of the Local Government Act 1993". 10
- (b) From section 40 (2) (b), omit "town or shire clerk", insert instead "general manager or public officer".
- (c) Omit section 40 (2) (c).
- (d) From section 40 (2) (d), omit "an officer of a council", insert instead "a member of staff of a council". 15
- (5) **Section 56 (Council rates):**
Omit the section.
- (6) **Schedule 4 (Cobar Water Board):**
Omit clause 6, insert instead: 20
Catchment district
6. The catchment district for the Board is that proclaimed (or taken to have been proclaimed) under section 128 of the Local Government Act 1993.
- (7) **Schedule 6, Part 1 (Land exempt from service charges):** 25
- (a) From paragraph 10, omit "Local Government Act 1919", insert instead "Local Government Act 1993".
- (b) From paragraph 11 (c), omit "the council of the city, municipality or shire", insert instead "the council of the local government area". 30
- (c) Omit paragraph 14, insert instead:
14. Sports grounds, gardens or children's playgrounds provided by a council under the Local Government Act 1993.

Local Government (Consequential Provisions) 1993

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 5)

Current development consents under the Environmental Planning and Assessment Act 1979

1. A development consent under the Environmental Planning and Assessment Act 1979 that has not lapsed before the commencement of Schedule 2 (7) lapses 5 years after the date from which the development consent operated, subject to section 99 (4) and (4A) of the Environmental Planning and Assessment Act 1979, as amended by this Act. 5

Further amendment or repeal of Environmental Planning and Assessment Regulation 1980 10

2. The amendment made by this Act to the Environmental Planning and Assessment Regulation 1980 does not affect the future amendment or repeal of that Regulation.

Publication of information concerning affairs of councils and county councils

3. The general manager of a council or county council must, in accordance with section 14 of the Freedom of Information Act 1989, as amended by this Act: 15
 - (a) cause the first up-to-date statement of the affairs of the agency to be published within 12 months after the amendment to that section commences; and
 - (b) cause the first summary of those affairs to be published within 6 months after that commencement. 20

Regulations relating to Kosciuszko National Park

4. A regulation made for the purposes of section 155A of the National Parks and Wildlife Act 1974 and in force immediately before the amendment of that section by this Act is taken to be made for the purposes of that section, as amended by this Act.

Period within which the Valuer-General must furnish a valuation list 25

5. If a valuation list for an area was last furnished by the Valuer-General 4 or more years before the commencement of the amendment made to section 48 of the Valuation of Land Act 1916 by this Act, the Valuer-General may, in furnishing the first valuation list for the area after that commencement, comply with that section as if it had not been amended by this Act. 30

FIRST PRINT

**LOCAL GOVERNMENT (CONSEQUENTIAL PROVISIONS)
BILL 1993**

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Local Government Bill 1993.

The object of this Bill is:

- (a) to repeal the Local Government Act 1919 (except certain Parts) which will be replaced by the proposed Local Government Act 1993 and as a consequence to repeal certain other Acts and ordinances; and
- (b) to make amendments to various Acts and instruments as a consequence of the enactment of the proposed Local Government Act 1993; and
- (c) to make provision for savings and transitional matters.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Clause 3 repeals the instruments specified in Schedule 1.

Clause 4 gives effect to Schedule 2 which contains amendments to various instruments.

Clause 5 gives effect to Schedule 3 which contains savings and transitional provisions.

SCHEDULE 1—REPEALS

Schedule 1 repeals the following instruments:

- City of Sydney Improvement Act (1879)
- Local Government Act 1919 (except Parts 12, 18, 22 and 28)
- City of Newcastle Act 1986
- Specified ordinances under the Local Government Act 1919

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS

Schedule 2 contains amendments to various instruments which are consequential on the repeal of the instruments referred to in Schedule 1 and the enactment of the proposed Local Government Act 1993 and its cognate Acts.

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

Schedule 3 contains savings and transitional provisions required as a consequence of the enactment of the proposed Act.

FIRST PRINT

**LOCAL GOVERNMENT (CONSEQUENTIAL PROVISIONS)
BILL 1993**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Repeals
4. Amendment of instruments
5. Savings, transitional and other provisions

SCHEDULE 1—REPEALS

SCHEDULE 2—AMENDMENT OF INSTRUMENTS

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

**LOCAL GOVERNMENT (CONSEQUENTIAL PROVISIONS)
BILL 1993**

NEW SOUTH WALES



No. , 1993

A BILL FOR

An Act to repeal certain enactments; to amend certain other enactments;
and to enact provisions consequential on the enactment of the Local
Government Act 1993.

Local Government (Consequential Provisions) 1993

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Local Government (Consequential Provisions) Act 1993.

5 Commencement

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

Repeals

3. (1) Each instrument specified in Schedule 1 is repealed.

10 (2) Different days may be appointed for the commencement of subsection (1) for the purpose of repealing, on different days, different provisions of an instrument specified in Schedule 1 or an instrument that may be made under such an instrument.

Amendment of instruments

15 4. Each instrument specified in Schedule 2 is amended as set out in that Schedule.

Savings, transitional and other provisions

5. Schedule 3 has effect.

SCHEDULE 1—REPEALS

20

(Sec. 3)

City of Sydney Improvement Act (1879) 42 Vic. No. 25

Local Government Act 1919 No. 41 (other than Parts 12, 18, 22 and 28)

City of Newcastle Act 1986 No. 43

25 Ordinances made or deemed to have been made under the Local Government Act 1919 and in force at the commencement of this Schedule (other than Ordinances Nos. 30, 30A, 30C, 30D, 32, 33, 34A, 49, 50, 50A and 59)

SCHEDULE 2—AMENDMENT OF INSTRUMENTS

(Sec. 4)

City of Sydney Act 1988 No. 48

- (1) **Section 2 (Commencement):**
Omit section 2 (3). 5
- (2) **Section 3 (Principal Act):**
From section 3 (1), omit "1919", insert instead "1993".
- (3) **Section 4 (Definitions):**
Omit the definition of "South Sydney Council".
- (4) **Part 2 (Constitution of the Cities of Sydney and South Sydney):** 10
Omit the Part.
- (5) **Sections 22 (Compulsory voting at elections and polls), 34 (Members of the Planning Committee):**
Omit "aldermen" wherever occurring, insert instead "councillors". 15
- (6) **Section 33 (The Planning Committee):**
From section 33 (5), omit "section 654", insert instead "section 736".
- (7) **Section 52 (Regulations):** 20
Omit the section.
- (8) **Sections 54–56:**
Omit the sections.
- (9) **Section 58 (Regulations):**
At the end of section 58, insert: 25
(2) In particular, the regulations may make provision for or with respect to the following:
 - (a) the form in which applications under Division 4 of Part 4 may be made;
 - (b) the fees to be lodged with applications; 30
 - (c) the determination of applications;
 - (d) the recording of determinations;

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (e) the notification of the making of determinations;
- (f) the giving of effect to determinations;
- (g) the public availability of determinations.

5 (10) Schedule 1 (**The Planning Committee**):

From clauses 2 and 4, omit “an alderman” wherever occurring, insert instead “a councillor”.

Crown Lands Act 1989 No. 6

10 (1) Sections 75 (**Definitions**), 76 (**Vesting of certain land in councils**), 138 (**Certain land may be declared to be Crown land**):

Omit “Local Government Act 1919” wherever occurring, insert instead “Local Government Act 1993”.

15 (2) Section 77 (**Effect of vesting**):

From section 77 (1) (a), omit “Local Government Act 1919 by the council subject to the operation of section 518 (2) and (5) of that Act”, insert instead “Local Government Act 1993 and to have been classified as community land under that Act”.

20 (3) Section 78 (**Definitions**):

Omit “Local Government Act 1919” wherever occurring, insert instead “Local Government Act 1993”.

25 (4) Section 98 (**Application of Local Government Act where a council manages a reserve trust**):

(a) Omit “Local Government Act 1919” wherever occurring, insert instead “Local Government Act 1993”.

(b) After section 98 (1), insert:

(1A) However, the trust has no power to classify the public reserve or any part of it as operational land under the Local Government Act 1993.

30 (5) Section 158 (**Removal of unauthorised structures**):

After “1919” wherever occurring, insert “, Part 1 of Chapter 7 of the Local Government Act 1993”.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(6) Schedule 3 (Provisions relating to the members of a trust board):

(a) Omit clause 6 (3), insert instead:

(3) Subclause (2) does not apply if the member ceased to hold office: 5

(a) in circumstances giving rise to a vacancy in civic office under section 232 of the Local Government Act 1993; or

(b) because of a declaration under section 253 of that Act. 10

(b) Omit the definition of “local government office” from clause 9, insert instead:

“local government office” means the office of a councillor (including a mayor) under the Local Government Act 1993. 15

Darling Harbour Authority Act 1984 No. 103

Section 59 (Application of certain legislation within Development Area):

From section 59 (1) (b) and (3) (b), omit “sections 270L and 277 (3) (b) and” wherever occurring. 20

Environmental Offences and Penalties Act 1989 No. 150

(1) Section 8F (Littering):

From section 8F (3) (a) (ii), omit “Local Government Act 1919”, insert instead “Local Government Act 1993”.

(2) Section 25 (Restraint of breaches of an Act or statutory rule which harm the environment): 25

After section 25 (1), insert:

(1A) This section does not enable a person to bring proceedings for an order to restrain a breach (or a threatened or apprehended breach) of the Local Government Act 1993 or the regulations made under that Act. 30

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

Environmental Planning and Assessment Act 1979 No. 203

(1) Section 77 (**Making of development applications**):

After section 77 (3A), insert:

- 5 (3B) The consent authority may reject a development application within 7 days after its receipt if it is not clear as to the development consent sought or if it is not easily legible. An application so rejected is taken not to have been made and the application fee is to be refunded.

10 (2) Section 91 (**Determination of development application**):

(a) From section 91 (3) (h), omit “section 94”, insert instead “section 91AA, 91AB or 94”.

(b) After section 91 (3), insert:

- 15 (3A) A consent may be granted subject to:
- (a) a condition that is to be complied with to the satisfaction of the consent authority or a person specified by the consent authority; or
- 20 (b) a condition that a specified aspect of the development that is ancillary to the core purpose of the development is to be carried out to the satisfaction of the consent authority or a person specified by the consent authority.

(3) Sections 91AA, 91AB:

After section 91, insert:

“In principle” consent

25 91AA. (1) A development consent may be granted subject to a condition that the consent is not to operate until the applicant satisfies the consent authority as to any matter specified in the condition. Nothing in this Act prevents a person from doing such things as may be necessary to

30 comply with the condition.

(2) Such a consent must be clearly identified as an “in principle” consent (whether by the use of that expression or by reference to this section or otherwise).

35 (3) An “in principle” consent must clearly distinguish conditions concerning matters as to which the consent authority must be satisfied before the consent can operate from any other conditions.

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(4) A consent authority may specify the period in which the applicant must produce evidence to the consent authority sufficient to enable it to be satisfied as to those matters.

(5) The applicant may produce evidence to the consent authority sufficient to enable it to be satisfied as to those matters and, if the consent authority has specified a period for the purpose, the evidence must be produced within that period. 5

(6) If the applicant produces evidence in accordance with this section, the consent authority must notify the applicant whether or not it is satisfied as to the relevant matters. If the consent authority has not notified the applicant within the period of 28 days after the applicant's evidence is produced to it, the consent authority is, for the purposes only of section 97, taken to have notified the applicant that it is not satisfied as to those matters on the date on which that period expires. 10 15

Staged development

91AB. (1) A development consent may be granted:

- (a) for the development for which the consent is sought; or 20
- (b) for that development, except for a specified part or aspect of that development; or
- (c) for a specified part or aspect of that development.

(2) Such a development consent may be granted subject to a condition that the development or the specified part or aspect of the development, or any thing associated with the development or the carrying out of the development, must be the subject of another development consent. 25

(4) Section 92:

Omit the section, insert instead: 30

Notice to applicant of determination of development application

92. (1) The consent authority (or the Minister in the case of a determination by the Minister under section 91A) must give notice of the determination of the development application in the prescribed form and manner. 35

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- 5 (2) The date of the determination and the date from which the development consent operates (if development consent is granted) must be endorsed, as prescribed, on the notice.
- (3) In the case of a development consent granted subject to a condition that the consent is not to operate until the applicant satisfies the consent authority as to any matter specified in the condition:
- 10 (a) the date from which the consent operates must not be endorsed on the notice; and
- (b) if the applicant satisfies the consent authority as to the matter, the consent authority must give notice to the applicant, in the prescribed form and manner, of the date from which the consent operates.
- 15 (4) If the determination is made by the granting of consent subject to conditions or by the refusing of consent, the notice of the determination must:
- (a) indicate the reasons for the imposition of the conditions or the refusal; and
- 20 (b) notify the applicant of the provisions of this Act conferring a right of appeal against the determination.
- (5) Section 93 (**Date from which consent operates**):
- (a) From section 93, omit “under section 91” wherever occurring.
- 25 (b) From section 93 (1), omit “, as prescribed,” wherever occurring.
- (c) After section 93 (5), insert:
- 30 (6) A development consent in respect of a development application that is taken to have been determined under section 91A operates from the date on which it is taken to have been determined.
- (6) Section 97 (**Appeal by an applicant**):
- (a) After section 97 (1), insert:
- 35 (1A) An applicant who is dissatisfied with a decision that a consent authority is not satisfied as to a matter, being a matter as to which it must be satisfied before an “in principle” consent under section 91AA can operate, may

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- appeal to the Court within 12 months after the consent authority notifies the applicant of its decision.
- (b) Omit “subsection (1)” wherever occurring, insert instead “this section”. 5
- (7) Section 99 (**Lapsing of consent**):
- Omit section 99 (1)–(4B), insert instead:
- (1) A development consent lapses:
- (a) 5 years after the date from which it operates, except as provided by paragraph (b); or 10
- (b) in the case of a development consent that is subject to a condition under section 91AB (2), 2 years after the date from which the last consent, approval or permission required to be obtained in accordance with the condition operates. 15
- (2) A consent authority, in granting development consent, may vary either or both of the periods referred to in subsection (1), despite that subsection.
- (3) Such a variation may not be made so as to cause:
- (a) a development consent to erect or demolish a building or to subdivide land to lapse within 2 years after the date from which the consent operates; or 20
- (b) a development consent of a kind prescribed by regulation to lapse within the period prescribed by regulation in relation to the consent. 25
- (4) Development consent for:
- (a) the erection of a building; or
- (b) the subdivision of land; or
- (c) the carrying out of a work,
- does not lapse if building, engineering or construction work relating to the building, subdivision or work is physically commenced on the land to which the consent applies before the date on which the consent would otherwise lapse under this section. 30
- (4A) Development consent for development other than that referred to in subsection (4) does not lapse if the use of any land, building or work the subject of that consent is actually 35

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

commenced before the date on which the consent would otherwise lapse under this section.

5 (4B) If, in granting a development consent, the consent authority reduces the period referred to in subsection (1) (a) to less than 5 years, the applicant or any other person entitled to act on the consent may apply to the consent authority, before the period expires, for an extension of 1 year.

10 (4C) The consent authority may grant the extension if satisfied that the applicant has shown good cause.

15 (4D) A person making an application under subsection (4B) who is dissatisfied with the determination of the application or the failure of the consent authority to determine the application within 40 days after it is made, may, except where the application is made in respect of a consent granted by the Minister under section 101, appeal to the Court, and the Court may determine the appeal.

(4E) An extension of 1 year granted under this section commences to run from the later of the following:

- 20 (a) the date on which the consent would have elapsed but for the extension;
- 25 (b) the date on which the consent authority granted the extension or, if the Court has allowed the extension in determining an appeal, the date on which the Court determined the appeal.

(8) Section 101 (**Determination of development applications by the Minister**):

In section 101 (8), after “91”, insert “and sections 91AA and 91AB”.

30 **Environmental Planning and Assessment Regulation 1980**

Clause 41F (**Structure and subject-matter of plan**):

At the end of clause 41F, insert:

- (2) In determining the contribution rates for different types of development, the council must take into consideration:
- 35 (a) conditions that may be imposed under section 96 (1)
- (b) of the Local Government Act 1993; and

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (b) the amount and purpose of any payment that may be required to be made by a developer under section 27 (1) (b) of the Water Supply Authorities Act 1987 (or that provision as applied by section 63 of the Local Government Act 1993). 5

Freedom of Information Act 1989 No. 5

- (1) Section 6 (**Definitions**):
- (a) Omit the definition of “local authority” in section 6 (1), insert instead: 10
- “local authority” means a council or county council within the meaning of the Local Government Act 1993;
- (b) From paragraph (d) of the definition of “principal officer” in section 6 (1), omit “Mayor, President or Chairman, as the case may be,”, insert instead “general manager”. 15
- (2) Section 13 (**Application of Part**):
- Omit the section.
- (3) Section 14 (**Publication of information concerning affairs of agencies**):
- (a) In section 14 (1), after “agency” where firstly occurring, insert “(other than a local authority)”. 20
- (b) After section 14 (1), insert:
- (1A) The general manager of a local authority has, in relation to the local authority, the same functions under subsection (1) as the responsible Minister has in relation to an agency. 25
- (4) Section 16 (**Right of access to agencies’ documents**):
- Omit section 16 (2).

Hunter Water Board (Corporatisation) Act 1991 No. 53

- (1) Section 28 (**Corporation not liable to pay annual charge on pipes etc.**): 30
- Omit “Section 171 of the Local Government Act 1919”, insert instead “Section 606 of the Local Government Act 1993”.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(2) Section 48 (**Definitions**):

Omit paragraph (a) of the definition of “approval” in section 48 (1), insert instead:

- 5 (a) an approval under Part 1 of Chapter 7 of the Local Government Act 1993 for the erection of a building; or

(3) Section 51 (**Consent authority to notify Corporation of certain applications etc.**):

- 10 From section 51 (1), omit “a building application under section 311 of the Local Government Act 1919”, insert instead “an application for approval to erect a building under Part 1 of Chapter 7 of the Local Government Act 1993”.

(4) Section 70 (**Regulations**):

Omit section 70 (5) (d), insert instead:

- 15 (d) charges on land and the recovery of amounts charged on land, including applying the provisions (with or without modification) of Divisions 4 and 5 of Part 2 of Chapter 17 of the Local Government Act 1993.

Justices Act 1902 No. 27

20 (1) Section 63 (**Manner of service of summons**):

Omit section 63 (2A) (c), insert instead:

- (c) as a councillor or employee of a council within the meaning of the Local Government Act 1993;

(2) Section 75B (**Ex parte procedure for certain offences**):

- 25 From section 75B (1) (c), omit “Local Government Act 1919”, insert instead “Local Government Act 1993”.

(3) Section 100I (**Definitions**):

- 30 From paragraph (a) of the definition of “penalty notice” in section 100I (1), omit the matter relating to the Local Government Act 1919, insert instead:

Local Government Act 1993, section 674;

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

Land and Environment Court Act 1979 No. 204

(1) Section 16 (**Jurisdiction of the Court generally**):

After section 16 (1), insert:

(1A) The Court also has jurisdiction to hear and dispose of any matter not falling within its jurisdiction under any other provision of this Act or under any other Act, being a matter that is ancillary to a matter that falls within its jurisdiction under any other provision of this Act or under any other Act. 5

(2) Section 18 (**Class 2—local government and miscellaneous appeals**): 10

Omit section 18 (a), insert instead:

(a) appeals or objections under sections 81, 174, 175, 176, 178, 180, 183 and 606 of the Local Government Act 1993; 15

(3) Section 19 (**Class 3—land tenure, valuation, rating and compensation matters**):

Omit section 19 (d), insert instead:

(d) appeals and applications under sections 177, 179, 523 (and section 523 as applied by section 527), 570, 672 and 725 of the Local Government Act 1993; 20

(4) Section 20 (**Class 4—environmental planning and protection civil enforcement**):

(a) Omit section 20 (1) (d), insert instead:

(d) proceedings under sections 667 and 668 of the Local Government Act 1993; 25

(b) From section 20 (3) (a), omit "Part 7, 11, 12, 12A or 12B of the Local Government Act 1919;"; insert instead "Part 2 of Chapter 6, Chapter 7 or Chapter 15 of the Local Government Act 1993;". 30

(5) Section 21 (**Class 5—environmental planning and protection summary enforcement**):

Omit section 21 (g), insert instead:

(g) proceedings under section 686 of the Local Government Act 1993; 35

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(6) Section 33 (**Exercise of jurisdictions in the Divisions**):

After section 33 (2), insert:

- 5 (3) The Court's jurisdiction under section 16 (1A) is to be exercised by a Judge, but this subsection does not prevent a Judge from being assisted by one or more assessors in accordance with section 37.

(7) Section 40 (**Additional powers of Court—provision of easements**):

- 10 (a) From section 40 (1), omit "or section 317L or 341 of the Local Government Act 1919", insert instead "or section 174, 175 or 176 of the Local Government Act 1993".
- 15 (b) From section 40 (1), omit "Local Government Act 1919" where secondly occurring, insert instead "Local Government Act 1993".

National Parks and Wildlife Act 1974 No. 80

(1) Section 11 (**Use of services of officers etc. of Departments etc.**):

- 20 From section 11 (2), omit "the council of an area or county district under the Local Government Act 1919", insert instead "a council or county council under the Local Government Act 1993".

(2) Section 144 (**Exemption from rates**):

Omit the section.

(3) Section 155A (**Kosciusko National Park**):

- 25 From section 155A, omit "by or under the Local Government Act 1919", insert instead "constituted by the Local Government Act 1993".

(4) Sections 163A, 163B:

Omit section 163A, insert instead:

30 **Application of Local Government Act 1919**

163A. Part 12 (Town planning) of the Local Government Act 1919 does not apply to lands reserved or dedicated under this Act.

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

Application of Local Government Act 1993

163B. Chapter 7 (What are the regulatory functions of councils?) of the Local Government Act 1993 does not apply to lands reserved or dedicated under this Act. 5

(5) Schedule 9A (Management of State Recreation Areas by Trustees):

From clause 5 (1) (h), omit “the office of member of a council within the meaning of the Local Government Act 1919 or mayor, Lord Mayor or president of an area within the meaning of that Act, and who ceases to hold that office otherwise than in circumstances giving rise to an extraordinary vacancy under section 35 of that Act and otherwise than by reason of the removal of the members of a council under section 86 of that Act”, insert instead “the office of councillor or mayor under the Local Government Act 1993 and who ceases to hold that office otherwise than in circumstances giving rise to a vacancy under section 232 of that Act and otherwise than because of the removal of the councillors of a council under Division 6 of Part 2 of Chapter 9 of that Act”. 10 15 20

Public Health Act 1991 No. 10

Section 51 (Registration of mortuaries):

Omit the section.

Public Works Act 1912 No. 45

(1) Section 3 (Definitions):

After the definition of “Constructing Authority”, insert:

“**Council**” means the council of an area under the Local Government Act 1993;

(2) Parts 9 and 10:

After Part 8, insert:

PART 9—NATIONAL WORKS

Declaration of national works

151. (1) The Governor may, by proclamation, declare any road, bridge, ferry, wharf, public reserve or public work of 35

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

any kind in any area to be a national work.

5 (2) A national work is, for the purposes of this Act, taken to be an authorised work and the Minister is taken to be the Constructing Authority.

(3) A work may be a national work whether or not it is a new work or an existing work.

Functions of Minister

10 152. (1) The Minister is to maintain, manage and administer national works.

15 (2) The Minister has, and may exercise and enjoy, the powers and immunities of a council under the Local Government Act 1993 for the purpose of the construction, control, protection, maintenance and management of national works.

National works may be handed over to councils

20 153. (1) The Minister, with the agreement of a council, may, by notice published in the Gazette, declare that a national work is handed over, either temporarily or permanently, to a council.

(2) A work which is handed over to a council is to be maintained, managed and administered by the council and ceases to be a national work while it is so maintained, managed and administered.

25 **National works etc. may be handed over to Roads and Traffic Authority**

30 154. (1) The Minister, with the agreement of the Roads and Traffic Authority, may, by notice published in the Gazette, declare that:

(a) a road, bridge, ferry or tunnel that is a national work; or

35 (b) any other road, bridge, ferry or tunnel that is maintained, managed and administered by the Minister, is handed over, either temporarily or permanently, to the Roads and Traffic Authority.

(2) A road, bridge, ferry or tunnel which is handed over to the Roads and Traffic Authority is to be maintained, managed

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

and administered by the Authority and (in the case of a national work) ceases to be a national work while it is so maintained, managed and administered.

(3) The Roads and Traffic Authority has, and may exercise and enjoy, the powers and immunities of a council under the Local Government Act 1993 for the purpose of the control, protection, maintenance, and management of any road, bridge, ferry or tunnel maintained, managed and administered by it. 5 10

(4) The Roads and Traffic Authority, with the agreement of a council, may, by notice published in the Gazette, declare that a road, bridge, ferry or tunnel:

(a) that is maintained, managed and administered by the Authority pursuant to this section; and 15

(b) that was, immediately before it was handed over to the Authority, a national work,

is handed over, either temporarily or permanently, to a council.

(5) A work which is handed over to a council is to be maintained, managed and administered by the council. 20

Closure of national works

155. The Minister may temporarily or permanently close a national work to the public and may dismantle any structure and dispose of its materials. 25

Appointment of councils as agents

156. (1) The Minister may appoint a council as the Minister's agent for the care, control and management of a national work.

(2) The council may act as the Minister's agent even if the national work concerned is partly outside the council's area. 30

(3) A council acting as the Minister's agent may take legal proceedings in its own name to recover penalties for offences relating to a national work.

Regulations 35

157. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to:

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- 5 (a) the construction, control, management, maintenance and protection of national works; and
- (b) the regulation, restriction or suspension of the use by the public of national works; and
- (c) the collection of fees and charges for the use of any national work other than a road or bridge.

10 (2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

Proceedings for offences

158. Proceedings for an offence against a regulation made under this Part are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

15 **PART 10—OTHER MATTERS RELATING TO COUNCILS ETC.**

Minister to have certain functions

159. The Minister has, and may exercise and enjoy, the powers and immunities of a council under the Local Government Act 1993, for the following purposes:

- 20 (a) the construction, control, protection, maintenance and management of roads, bridges, ferries, wharves or public works of any kind in the Western Division;
- (b) the construction, and protection during construction, of any works carried out by the Minister for a council.

25 **Minister may construct works etc. on behalf of councils**

160. The Minister may, at the request of the Minister for Local Government, erect, construct or carry out for a council, any works necessary or convenient in connection with any works or undertakings that the council might lawfully erect, construct or carry out.

30

Returned and Services League of Australia (New South Wales Branch) Incorporation Act 1935 No. 39

(1) Section 4A:

After section 4, insert:

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

The Cenotaph

4A. (1) The League is to be taken to be the guardian of the Cenotaph in Martin Place in the City of Sydney.

(2) The Sydney City Council is required to appoint, as custodian of the Cenotaph, a person nominated by the League.

(3) An information or complaint in respect of any offence concerning the Cenotaph may be laid or made by the custodian of the Cenotaph.

(2) Section 5 (Amendment of Act No. 41, 1919):

Omit the section.

Stamp Duties Act 1920 No. 47

Second Schedule—General Exemptions from Stamp Duty under Part 3:

(a) From paragraph (14), omit “a council, county council or urban committee within the meaning of the Local Government Act 1919”, insert instead “a council or county council under the Local Government Act 1993”.

(b) From paragraph (19), omit “a council, county council or urban committee within the meaning of the Local Government Act 1919, as amended”, insert instead “a council or county council under the Local Government Act 1993”.

(c) From paragraph (19), omit “or committee” wherever occurring.

(d) From paragraph (19), omit “within the meaning of the Local Government Act 1919, as amended” where secondly occurring, insert instead:

, being:

(i) the supply of electricity, gas, liquefied petroleum gas or hydraulic power and the supply and installation of associated fittings and appliances; or

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (ii) the operation of a coal mine and the supply and distribution of coal; or
 (iii) the operation of a public transport service; or
 5 (iv) the supply of building materials.

Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)

Section 6 (Statutory and Other Offices Remuneration Tribunal):

- 10 From section 6 (3), omit “and the Parliamentary Remuneration Tribunal”, insert instead “, the Parliamentary Remuneration Tribunal and the Local Government Remuneration Tribunal”.

Sydney Cove Redevelopment Authority Act 1968 No. 56

Section 19 (General powers of Authority):

- 15 From section 19 (1) (f), omit “Division 13A of Part 9 of the Local Government Act 1919”, insert instead “Part 3B of the Traffic Act 1909”.

Teacher Housing Authority Act 1975 No. 27

(1) Section 4 (Definitions):

- 20 From the definition of “council” in section 4, omit “Local Government Act 1919”, insert instead “Local Government Act 1993”.

(2) Section 37 (Liability of Authority for rates):

- 25 (a) In section 37 (1) (b), after “rate” where firstly occurring, insert “(other than an ordinary rate made under the Local Government Act 1993)”.
- (b) Omit section 37 (2) and (3).

Valuation of Land Act 1916 No. 2

(1) Sections 7I, 7J, 7K:

- 30 After section 7H, insert:

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued***Mine in 2 or more areas**

7I. (1) If a mine is situated partly in one area and partly in another, the mine is to be valued as a whole, and the land value, improved value and assessed annual value are to be apportioned between the areas as the Valuer-General may direct. 5

(2) Objection may be made under this Act against any such apportionment.

Mine under sea 10

7J. If any part of a mine is under the sea or under the tidal waters of an estuary or harbour, the part is to be valued with and as part of the mine, even though the overlying land and water are not within the boundaries of any area.

Surface of a mine 15

7K. If any part of a mine is separately occupied by a person for a purpose other than mining, the part is taken to be distinct from the mine, and is to be valued and rated accordingly.

(2) Section 48 (Furnishing valuation lists to authorities): 20

(a) From section 48 (2), omit "six years after a valuation list is first furnished hereunder", insert instead "4 years".

(b) After section 48 (2), insert:

(3) Despite subsection (2), the Valuer-General may furnish a valuation list for an area within 6 years if the Valuer-General is of the opinion that there has been so little movement in values in the area that a valuation within 4 years is not warranted. 25

(3) Section 58C (Definitions):

(a) From the definition of "mixed development land" in section 58C (1), omit "one building", insert instead "one or more buildings". 30

(b) From section 58C (2), omit "a single building", insert instead "one or more buildings".

(c) In section 58C (2), after "the building", insert "or buildings". 35

(d) From section 58C (3), omit "one building" wherever occurring, insert instead "one or more buildings".

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (e) In section 58C (3), after “building” where lastly occurring, insert “or buildings”.

(4) Section 58F:

5 Before section 59, insert:

Land rating factors—certain classes of lease from the Crown

58F. (1) This section applies to land (not being land in the Western Division):

- 10 (a) held under an annual lease, occupation licence, preferential occupation licence, permissive occupancy, special lease (not being a special lease in perpetuity) or permit to enclose a road or watercourse granted under the Crown Lands Consolidation Act 1913; or
- 15 (b) held under a permissive occupancy or permit to enclose a road granted under the Closer Settlement Acts; or
- (c) held under any lease under the Forestry Act 1916; or
- 20 (d) held under a lease or licence, or permit to enclose a road or watercourse, granted under Part 4 of the Crown Lands Act 1989; or
- (e) held under a lease granted under the Prickly Pear Act 1987; or
- 25 (f) held under a lease under section 6 of the Irrigation Act 1912; or
- (g) owned by or vested in the Crown or any person on behalf of the Crown and which is the subject of a lease of a prescribed class or description.
- 30 (2) The Valuer-General must, when furnishing a general valuation list in which is included a valuation of any land to which this section applies or a supplementary valuation list in which is included a valuation of any such land, furnish:
- (a) a statement of a land rating factor; and
- 35 (b) if the valuation includes a valuation of the improved capital value, an improved rating factor determined in respect of any such land in accordance with subsection (3).

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (3) The rating factor in respect of any land to which this section applies is to be determined as follows:
- (a) in the case of the land rating factor, that factor is an amount equal to the land value of the land to which this section applies reduced in accordance with paragraph (c); 5
 - (b) in the case of the improved rating factor, that factor is an amount equal to the improved capital value of the land to which this section applies reduced in accordance with paragraph (c); 10
 - (c) the amounts referred to in paragraphs (a) and (b) are to be reduced by an amount, as determined by the Valuer-General, that would, had the restrictions on the disposition or manner of use that apply to that land by reason of its being the subject of a lease referred to in subsection (1) applied to the land at the time when the valuation was made or to which it relates, have been attributable to those restrictions. 15
- (4) Any rating factor determined under this section is to be shown on the notice of valuation and objection may be made to a rating factor as if it were a valuation. 20
- (5) Without limiting the generality of subsection (4), an objection may be made by a rateable person (within the meaning of the Local Government Act 1993) on the ground that no rating factor has been determined for the land in respect of which the person is rateable. 25

Water Board Act 1987 No. 141

- (1) Section 24 (**Definitions**):
- From paragraph (a) of the definition of “approval to which this Division applies”, omit “Part 11 of the Local Government Act 1919”, insert instead “Part 1 of Chapter 7 of the Local Government Act 1993”. 30
- (2) Section 40 (**Sale of land for unpaid amounts**):
- (a) From section 40 (1) and (2), omit “sections 602–613 of the Local Government Act 1919” wherever occurring, insert instead “Division 5 of Part 2 of Chapter 17 of the Local Government Act 1993”. 35

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

- (b) From section 40 (2) (b), omit "town or shire clerk", insert instead "general manager or public officer".
- (c) Omit section 40 (2) (c).
- 5 (d) From section 40 (2) (d), omit "an officer of a council", insert instead "a member of staff of a council".
- (3) Section 56 (**Council rates**):
Omit the section.
- (4) Schedule 3:
10 From clause 10 in Part 1, omit "Local Government Act 1919", insert instead "Local Government Act 1993".
- (5) Schedule 5 (**Provisions relating to the members of the Forum**):
 - (a) From clause 1 (1) (a) (i), omit "cities, municipalities and shires", insert instead "local government areas".
 - 15 (b) Omit clause 1 (1) (a) (ii), insert instead:
 - (ii) is a councillor of a council (within the meaning of the Local Government Act 1993) within the region represented; and
 - (c) Omit clause 6 (1) (d), insert instead:
 - 20 (d) being a member of the Forum because he or she was chosen by the Minister as a councillor of a council (within the meaning of the Local Government Act 1993), ceases to be a councillor; or

Water Supply Authorities Act 1987 No. 140

- 25 (1) Section 24 (**Definitions**):
From paragraph (a) of the definition of "approval to which this Division applies", omit "Part 11 of the Local Government Act 1919", insert instead "Part 1 of Chapter 7 of the Local Government Act 1993".
- 30 (2) Section 27 (**Issue of compliance certificate**):
After section 27 (1), insert:
 - (1A) The Authority, in the exercise of a function under subsection (1) (b), must have regard to the amount and purpose of any payment required to be made by the

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

developer as a condition of an approval to which this Division applies.

(3) Section 27A:

After section 27, insert:

5

Payment of amounts under s. 27 by the Crown

27A. (1) If, under section 27, an Authority requires the Crown to pay an amount or enter into an additional works agreement, or both, and the Crown disputes the requirement, the Crown may seek a determination from the Minister for Planning as to whether such a requirement should be made and, if so, in what terms.

10

(2) The Minister for Planning may make a determination concerning the requirement as if the Minister were the Authority.

15

(3) The determination of the Minister for Planning is final and is taken to be the determination of the Authority.

(4) Section 40 (**Sale of land for unpaid amounts**):

(a) From section 40 (1) and (2), omit "sections 602–613 of the Local Government Act 1919" wherever occurring, insert instead "Division 5 of Part 2 of Chapter 17 of the Local Government Act 1993".

20

(b) From section 40 (2) (b), omit "town or shire clerk", insert instead "general manager or public officer".

(c) Omit section 40 (2) (c).

25

(d) From section 40 (2) (d), omit "an officer of a council", insert instead "a member of staff of a council".

(5) Section 56 (**Council rates**):

Omit the section.

(6) Schedule 4 (**Cobar Water Board**):

30

Omit clause 6, insert instead:

Catchment district

6. The catchment district for the Board is that proclaimed (or taken to have been proclaimed) under section 127 of the Local Government Act 1993.

35

Local Government (Consequential Provisions) 1993

SCHEDULE 2—AMENDMENT OF INSTRUMENTS—*continued*

(7) Schedule 6, Part 1 (**Land exempt from service charges**):

- (a) From paragraph 10, omit "Local Government Act 1919", insert instead "Local Government Act 1993".
- 5 (b) From paragraph 11 (c), omit "the council of the city, municipality or shire", insert instead "the council of the local government area".
- (c) Omit paragraph 14, insert instead:
 - 10 14. Sports grounds, gardens or children's playgrounds provided by a council under the Local Government Act 1993.

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 5)

Lapsing of development consents

- 15 1. Section 99 of the Environmental Planning and Assessment Act 1979, as in force immediately before the date of its amendment by this Act, continues to apply to a development consent granted under the Environmental Planning and Assessment Act 1979 before that date as if it had not been amended by this Act.

Further amendment or repeal of Environmental Planning and Assessment Regulation 1980

- 20 2. The amendment made by this Act to the Environmental Planning and Assessment Regulation 1980 does not affect the future amendment or repeal of that Regulation.

Publication of information concerning affairs of councils and county councils

- 3. The general manager of a council or county council must, in accordance with section 14 of the Freedom of Information Act 1989, as amended by this Act:
 - 25 (a) cause the first up-to-date statement of the affairs of the agency to be published within 12 months after the amendment to that section commences; and
 - (b) cause the first summary of those affairs to be published within 6 months after that commencement.

Regulations relating to Kosciuszko National Park

- 30 4. A regulation made for the purposes of section 155A of the National Parks and Wildlife Act 1974 and in force immediately before the amendment of that section by this Act is taken to be made for the purposes of that section, as amended by this Act.

Local Government (Consequential Provisions) 1993

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
*continued***Period within which the Valuer-General must furnish a valuation list**

5. If a valuation list for an area was last furnished by the Valuer-General 4 or more years before the commencement of the amendment made to section 48 of the Valuation of Land Act 1916 by this Act, the Valuer-General may, in furnishing the first valuation list for the area after that commencement, comply with that section as if it had not been amended by this Act.

5

