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New South Wales

# Port Kembla Development (Special Provisions) Bill 1997

## Explanatory note

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

### Overview of Bill

The object of this Bill is to validate a development consent granted by the Minister for Urban Affairs and Planning in February 1996 for the upgrading and expansion of a copper smelter and refinery at Port Kembla, together with a modification of that development consent made in November 1996, to the extent of any invalidity.

On 12 September 1994, Southern Copper Limited lodged with the Minister for Urban Affairs and Planning a development application for the upgrading and expansion of an existing copper smelter and refinery at Port Kembla, which was accompanied by an environmental impact statement. After receipt of the report of a commission of inquiry, the Minister granted development consent on 19 February 1996. On a further application, the Minister modified the development consent on 19 November 1996.

The development consent and modification are the subject of proceedings before the Land and Environment Court.

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## Outline of provisions

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

**Clause 2** provides for the commencement of the proposed Act on the date of assent.

**Clause 3** defines various expressions used in the proposed Act.

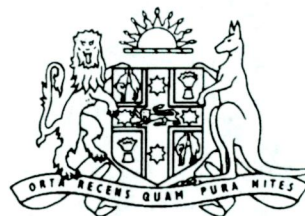
**Clause 4** validates the development consent granted by the Minister for Urban Affairs and Planning on 19 February 1996 and consequently validates anything done or omitted pursuant to it.

**Clause 5** validates the modification of the development consent made by the Minister for Urban Affairs and Planning on 19 November 1996 and consequently validates anything done or omitted pursuant to it.

**Clause 6** validates the development consent as modified and consequently validates anything done or omitted pursuant to it. The clause reinforces the validations made by clauses 4 and 5.

**Clause 7** provides that the validations (clauses 4–6) are effective despite any pending legal proceedings in any court.

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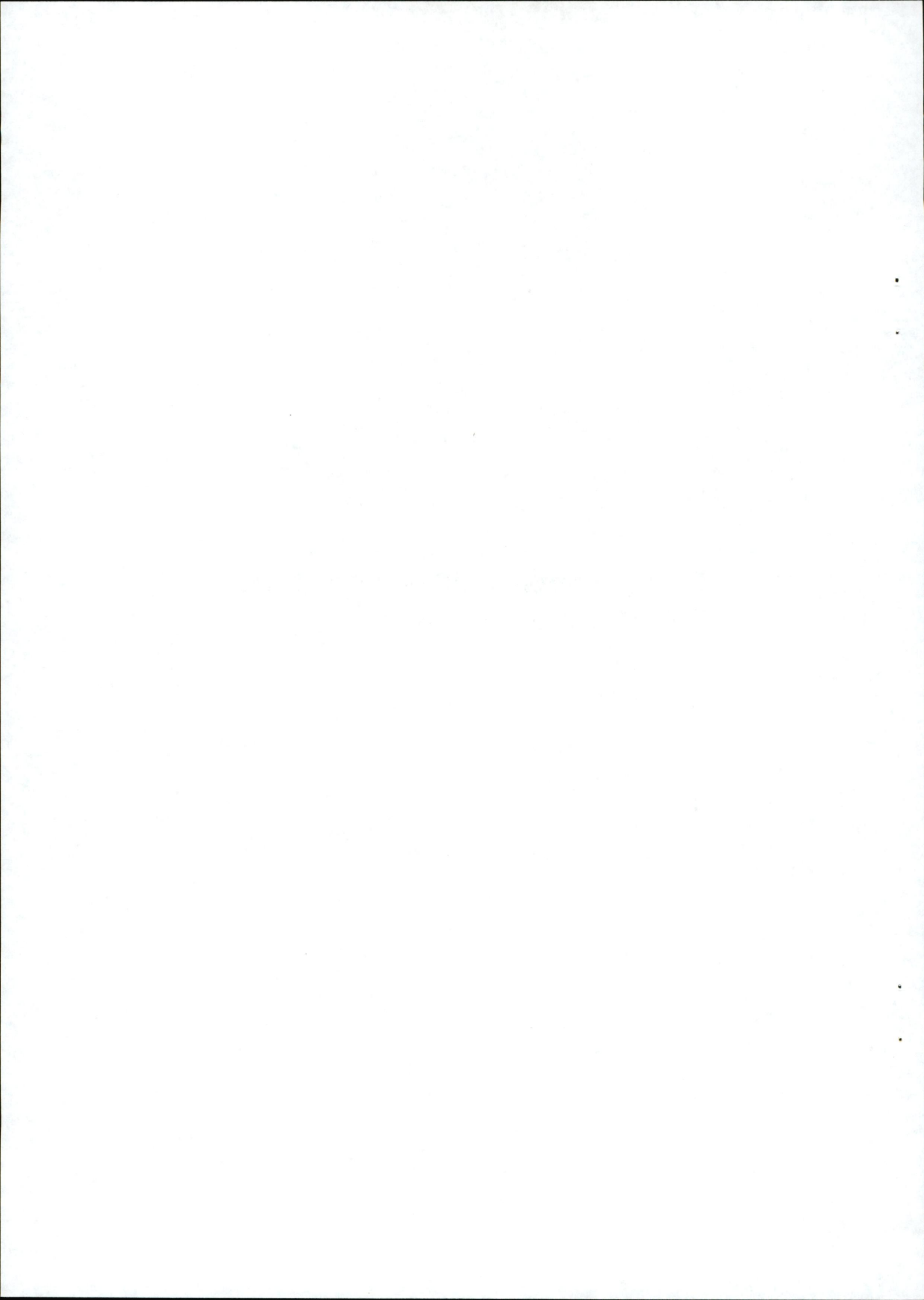
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New South Wales

## Port Kembla Development (Special Provisions) Bill 1997

No. , 1997

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### **A Bill for**

An Act to declare the validity of a development consent and a modification of that consent in connection with the upgrading and expansion of a copper smelter and refinery at Port Kembla; and for related purposes.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Port Kembla Development (Special Provisions) Act 1997*.

**2 Commencement**

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This Act commences on the date of assent.

**3 Definitions**

(1) In this Act:

*development consent* means the development consent granted, or purporting to have been granted, by the Minister for Urban Affairs and Planning in connection with the upgrading and expansion of a copper smelter and refinery at Port Kembla on 19 February 1996 and for other purposes, together with the conditions to which it was expressed to be subject. 10

*modification* means the modification of the development consent, being the modification made, or purporting to have been made, by the Minister for Urban Affairs and Planning on 19 November 1996. 15

*modified consent* means the development consent as modified by the modification. 20

*Principal Act* means the *Environmental Planning and Assessment Act 1979*, and includes the regulations under that Act, as respectively in force at any relevant time.

(2) Words and expressions used in this Act have the same meanings as in the Principal Act. 25

**4 Validation of development consent**

(1) The development consent is validated (to the extent of any invalidity), and is taken:  
(a) to have been duly granted in accordance with the Principal Act and otherwise in accordance with law, and 30

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- (b) to have been duly granted on 19 February 1996, and thereafter to be, and to have been at all relevant times, a valid development consent.
- (2) Without limiting subsection (1), anything done or omitted to be done on or after 19 February 1996 and before 19 November 1996 is as valid as it would have been had the development consent been in force when the thing was done or omitted. 5

#### **5 Validation of modification**

- (1) The modification is validated (to the extent of any invalidity), and is taken: 10
- (a) to have been duly made in accordance with the Principal Act and otherwise in accordance with law, and
- (b) to have been duly made on 19 November 1996, and thereafter to be, and to have been at all relevant times, a valid modification of the development consent. 15
- (2) Without limiting subsection (1), anything done or omitted to be done on or after 19 November 1996 is as valid as it would have been had the modification been in force when the thing was done or omitted.

#### **6 Validation of modified consent**

- (1) Without limiting the generality of sections 4 and 5, the modified consent is validated (to the extent of any invalidity). 20
- (2) Without limiting the generality of subsection (1) or of sections 4 and 5, anything done or omitted to be done on or after 19 November 1996 is as valid as it would have been had the modified consent been in force when the thing was done or omitted. 25

**7 Operation of Act**

Sections 4, 5 and 6 have effect despite the existence of, or the decision in, any proceedings pending in any court immediately before the commencement of this Act.





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# Port Kembla Development (Special Provisions) Act 1997 No 40

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New South Wales

## **Port Kembla Development (Special Provisions) Act 1997 No 40**

Act No 40, 1997

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An Act to declare the validity of a development consent and a modification of that consent in connection with the upgrading and expansion of a copper smelter and refinery at Port Kembla; and for related purposes. [Assented to 30 June 1997]

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## The Legislature of New South Wales enacts:

### 1 Name of Act

This Act is the *Port Kembla Development (Special Provisions) Act 1997*.

### 2 Commencement

This Act commences on the date of assent.

### 3 Definitions

(1) In this Act:

***development consent*** means the development consent granted, or purporting to have been granted, by the Minister for Urban Affairs and Planning in connection with the upgrading and expansion of a copper smelter and refinery at Port Kembla on 19 February 1996 and for other purposes, together with the conditions to which it was expressed to be subject.

***modification*** means the modification of the development consent, being the modification made, or purporting to have been made, by the Minister for Urban Affairs and Planning on 19 November 1996.

***modified consent*** means the development consent as modified by the modification.

***Principal Act*** means the *Environmental Planning and Assessment Act 1979*, and includes the regulations under that Act, as respectively in force at any relevant time.

(2) Words and expressions used in this Act have the same meanings as in the Principal Act.

### 4 Validation of development consent

(1) The development consent is validated (to the extent of any invalidity), and is taken:

(a) to have been duly granted in accordance with the Principal Act and otherwise in accordance with law, and

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- (b) to have been duly granted on 19 February 1996, and thereafter to be, and to have been at all relevant times, a valid development consent.
- (2) Without limiting subsection (1), anything done or omitted to be done on or after 19 February 1996 and before 19 November 1996 is as valid as it would have been had the development consent been in force when the thing was done or omitted.

## **5 Validation of modification**

- (1) The modification is validated (to the extent of any invalidity), and is taken:
- (a) to have been duly made in accordance with the Principal Act and otherwise in accordance with law, and
  - (b) to have been duly made on 19 November 1996, and thereafter to be, and to have been at all relevant times, a valid modification of the development consent.
- (2) Without limiting subsection (1), anything done or omitted to be done on or after 19 November 1996 is as valid as it would have been had the modification been in force when the thing was done or omitted.

## **6 Validation of modified consent**

- (1) Without limiting the generality of sections 4 and 5, the modified consent is validated (to the extent of any invalidity).
- (2) Without limiting the generality of subsection (1) or of sections 4 and 5, anything done or omitted to be done on or after 19 November 1996 is as valid as it would have been had the modified consent been in force when the thing was done or omitted.

## **7 Operation of Act**

Sections 4, 5 and 6 have effect despite the existence of, or the decision in, any proceedings pending in any court immediately before the commencement of this Act.

[Minister's second reading speech made in—  
Legislative Assembly on 28 May 1997  
Legislative Council on 19 June 1997]

BY AUTHORITY