



Albury-Wodonga Development Amendment Act 2000

No. 46, 2000



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***An Act to amend the *Albury-Wodonga Development
Act 1973*, and for other purposes***

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An Act to amend the *Albury-Wodonga Development Act 1973*, and for other purposes

[Assented to 3 May 2000]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Albury-Wodonga Development Amendment Act 2000*.

2 Commencement

- (1) The following provisions of this Act commence on the day on which this Act receives the Royal Assent:
 - (a) sections 1, 2 and 3;
 - (b) Part 1 of Schedule 1;
 - (c) Schedule 2.
- (2) Part 2 of Schedule 1 to this Act commences on a day to be fixed by Proclamation.
- (3) The day fixed by Proclamation for the purposes of subsection (2) must not be a day earlier than the day on which the Albury-Wodonga Area Development Winding-up Agreement is signed by the parties to that agreement.
- (4) If Part 2 of Schedule 1 to this Act does not commence under subsection (2) within the period of 6 months after whichever is the latest of the following days:
 - (a) the day on which the NSW Repeal Act receives the Royal Assent (however described);
 - (b) the day on which the Victorian Repeal Act receives the Royal Assent (however described);
 - (c) the day on which the Albury-Wodonga Area Development Winding-up Agreement is signed on behalf of the parties to the agreement;Part 2 of Schedule 1 to this Act commences on the first day after the end of that period.

(5) In this section:

NSW Repeal Act means an Act of New South Wales that repeals the *Albury-Wodonga Development Act 1974* of New South Wales.

Victorian Repeal Act means an Act of Victoria that repeals the *Albury-Wodonga Agreement Act 1973* of Victoria.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the Albury-Wodonga Development Act 1973

Part 1—Amendments commencing on Royal Assent

1 Subsection 3(1)

Insert:

Winding-up Agreement means the Albury-Wodonga Area Development Winding-up Agreement approved by subsection 5B(1).

2 After Part I

Insert:

Part IA—Albury-Wodonga Area Development Winding-up Agreement

5A Approved form of winding-up agreement

- (1) The Minister may make a written determination that a specified form of agreement is the *approved form of winding-up agreement* for the purposes of this Part.
- (2) The Minister must cause a copy of the determination to be tabled in each House of the Parliament.
- (3) Either House may, following a motion upon notice, pass a resolution disallowing the determination. To be effective, the resolution must be passed within 15 sitting days of the House after the copy of the determination was tabled in the House.
- (4) If neither House passes such a resolution, the determination takes effect on the day immediately after the last day upon which such a resolution could have been passed.
- (5) Subsections (3) and (4) have effect despite anything in:
 - (a) the *Acts Interpretation Act 1901*; or

(b) the *Legislative Instruments Act 2000*.

5B Approval of winding-up agreement

- (1) If an agreement substantially in accordance with the approved form of winding-up agreement is signed by or on behalf of the Commonwealth, New South Wales and Victoria, the agreement is approved by the Parliament.
- (2) The agreement approved by subsection (1) is to be known as the *Albury-Wodonga Area Development Winding-up Agreement*.

5C When winding-up agreement takes effect

The Winding-up Agreement may be expressed to take effect on the commencement of Part 2 of Schedule 1 to the *Albury-Wodonga Development Amendment Act 2000*.

5D Termination of the original Commonwealth/State agreement

- (1) The Winding-up Agreement is to make provision for the termination of the original Commonwealth/State agreement, with effect from the commencement of Part 2 of Schedule 1 to the *Albury-Wodonga Development Amendment Act 2000*.
- (2) In this section:

original Commonwealth/State agreement means the Agreement (as defined by subsection 3(1) as in force at the commencement of this section).

Part 2—Amendments commencing on Proclamation

3 Subsection 3(1) (definition of *Agreement*)

Repeal the definition.

4 Subsection 3(1)

Insert:

annual operational plan means a plan prepared under subsection 20B(1).

5 Subsection 3(1)

Insert:

asset includes:

- (a) any legal or equitable estate or interest in real or personal property, whether actual, contingent or prospective; and
- (b) any right, power, privilege or immunity, whether actual, contingent or prospective.

6 Subsection 3(1) (definition of *Council representative*)

Repeal the definition.

7 Subsection 3(1) (definition of *Deputy Chairperson*)

Repeal the definition.

8 Subsection 3(1) (definition of *executive member*)

Repeal the definition.

9 Subsection 3(1)

Insert:

joint Commonwealth/State scheme means the scheme:

- (a) under which the Commonwealth, New South Wales and Victoria agreed that:
 - (i) a new integrated urban complex be developed by the extension of existing urban areas of Albury and

- Wodonga and the creation of new urban areas in the Albury-Wodonga region; and
- (ii) amenities and services be provided to foster and serve that urban complex; and
 - (b) that had as one of its elements the establishment of the Corporation by this Act.

10 Subsection 3(1)

Insert:

land includes an interest in land.

11 Subsection 3(1)

Insert:

liability means any liability, duty or obligation, whether actual, contingent or prospective.

12 Subsection 3(1)

Insert:

winding-up plan means a plan prepared under subsection 20A(1).

13 Subsection 3(2)

Repeal the subsection.

14 Section 5

Repeal the section.

15 Part II

Repeal the Part.

16 Paragraphs 8(1)(a), (b), (c), (d) and (e)

Repeal the paragraphs, substitute:

- (a) to prepare the Corporation, over a period ascertained in accordance with the Winding-up Agreement, for abolition by a future Act; and
- (b) for the purposes of preparing the Corporation for abolition as mentioned in paragraph (a), to dispose of the assets of the Corporation; and

- (c) to assist the Commonwealth and other persons in connection with the winding-up of the Corporation and the joint Commonwealth/State scheme; and
- (d) for the purposes of facilitating the winding-up of the Corporation and the joint Commonwealth/State scheme:
 - (i) to acquire assets that were previously held by the Albury-Wodonga (New South Wales) Corporation or the Albury-Wodonga (Victoria) Corporation; and
 - (ii) to hold such assets; and
 - (iii) to prepare such assets for disposal (including by way of developing or improving such assets); and
 - (iv) to dispose of such assets; and
- (e) if requested by or on behalf of the Commonwealth, or by or on behalf of an authority of the Commonwealth, to do so—to act as the agent of the Commonwealth, or the authority of the Commonwealth, in relation to the disposal of land in the Albury-Wodonga region.

17 Subsection 8(2)

Omit all the words after “has” (second occurring), substitute:
power:

- (a) to enter into contracts and agreements; and
- (b) either directly or by arrangement with other persons, to construct buildings and works and carry on services.

18 Subsection 8(3)

Omit “Australian”.

19 Subsection 8(3)

Omit “Agreement”, substitute “Winding-up Agreement”.

20 Subsection 8(5)

Repeal the subsection, substitute:

- (5) For the purposes of subsection (3), each of the following purposes is taken to be a purpose that is complementary to this Act:
 - (a) the purpose of facilitating the disposal of the assets of the Corporation;

- (b) the purpose of facilitating the winding-up of the Corporation;
- (c) the purpose of facilitating the winding-up of the joint Commonwealth/State scheme.

(5A) For the purposes of subsection (3), if an Act of New South Wales, or a part of such an Act, confers or imposes on the Corporation functions, powers or duties of a kind that were previously conferred or imposed on the Albury-Wodonga (New South Wales) Corporation, that Act or that part of that Act, as the case may be, is taken to confer or impose those functions, powers or duties for purposes that are complementary to this Act.

(5B) For the purposes of subsection (3), if an Act of Victoria, or a part of such an Act, confers or imposes on the Corporation functions, powers or duties of a kind that were previously conferred or imposed on the Albury-Wodonga (Victoria) Corporation, that Act or that part of that Act, as the case may be, is taken to confer or impose those functions, powers or duties for purposes that are complementary to this Act.

21 Subsection 8(6)

Omit “directions given to it by the Ministerial Council”, substitute “written directions given to it by the Minister”.

22 Subsection 8(7)

Omit “Agreement”, substitute “Winding-up Agreement”.

23 At the end of section 8

Add:

- (9) To avoid doubt, a reference in subsection (1) to:
- (a) the abolition or winding-up of the Corporation; or
 - (b) the winding-up of the joint Commonwealth/State scheme;
- does not, by implication:
- (c) require the Corporation to dispose of all of its assets; or
 - (d) prevent functions, powers or duties being conferred or imposed on the Corporation by a law of New South Wales or Victoria.

- (10) It is the intention of the Parliament that subsection (1) is not to apply to the exclusion of a law of New South Wales or Victoria to the extent to which that law is capable of operating concurrently with that subsection.

24 Paragraphs 10(1)(b), (c) and (d)

Repeal the paragraphs.

25 Subsections 10(3) and (4)

Repeal the subsections, substitute:

- (3) A person is not to be appointed as:
- (a) the Chairperson; or
 - (b) a member referred to in paragraph (1)(e);
- unless he or she appears to the Minister to be qualified for appointment because of his or her knowledge and understanding of issues relating to the development of the Albury-Wodonga region.

26 Subsections 10(7) and (8)

Repeal the subsections.

27 Subsection 11(3)

Repeal the subsection.

28 Subsection 12(3)

Omit "Australian".

29 Paragraph 15(2)(f)

Omit "being an executive member,".

30 Paragraph 16(1)(b)

Omit "Area", substitute "Albury-Wodonga region".

31 Subsection 16(2)

Omit "Ministerial Council", substitute "Minister".

32 Section 17

Omit "Ministerial Council", substitute "Minister".

33 Subsection 18(1)

Omit “Subject to subsection (2), where”, substitute “Where”.

34 Subsection 18(1)

Omit “or a Deputy Chairperson”.

35 Subsection 18(1)

Omit “or an office of Deputy Chairperson”.

36 Subsection 18(1)

Omit “Australian”.

37 Subsection 18(1)

Omit “or acting Deputy Chairperson”.

38 Subsection 18(2)

Repeal the subsection.

39 Subsection 18(3)

Omit “or acting Deputy Chairperson”.

40 Subsection 18(4)

Omit “or acting Deputy Chairperson”.

41 Subsection 18(4)

Omit “or Deputy Chairperson, as the case may be”.

42 Subsection 18(5)

Omit “Australian”.

43 Subsections 18(6), (6A), (6B) and (6C)

Repeal the subsections.

44 Subsection 18(7)

Omit “Australian”.

45 Subsection 18(8)

Omit “Ministerial Council”, substitute “Minister”.

46 Subsection 19(2)

Omit “Deputy Chairmen”, substitute “appointed members”.

47 Subsection 19(3)

Repeal the subsection.

48 Subsection 19(4)

Omit “, including at least one executive member”.

49 Subsection 19(6)

Omit “a Deputy Chairperson”, substitute “an appointed member”.

50 Section 20

Repeal the section, substitute:

20 Delegation by Corporation

- (1) The Corporation may, by writing, delegate any or all of its functions and powers to:
 - (a) a member; or
 - (b) an officer or employee of the Corporation.
- (2) The delegate is, in the exercise of the function or power delegated under subsection (1), subject to the directions of the Corporation.

51 After Part IV

Insert:

Part IVA—Winding-up plan and annual operational plans

20A Winding-up plan

- (1) The Corporation must:
 - (a) prepare a plan setting out the manner in which the Corporation proposes to perform the functions conferred on it by paragraphs 8(1)(a), (b), (c) and (d); and
 - (b) give a copy of the plan to the Minister.

- (2) The Corporation must do this as soon as practicable, and in any event within 90 days, after the commencement of this section.

Note: Paragraphs 8(1)(a), (b), (c) and (d) deal with the winding-up of the Corporation and the joint Commonwealth/State scheme.

- (3) The plan is to be known as the *winding-up plan*.

- (4) The winding-up plan is to be expressed to relate to the period mentioned in paragraph 8(1)(a).

Note: The period mentioned in paragraph 8(1)(a) is the period over which the Corporation is to prepare itself for abolition by a future Act.

- (5) The Corporation must keep the Minister informed about matters that arise that might significantly affect the carrying out of the winding-up plan.

- (6) The Corporation may vary the winding-up plan.

- (7) If the Corporation varies the winding-up plan, the Corporation must give a copy of the variation to the Minister.

- (8) The Minister may direct the Corporation to vary the winding-up plan.

- (9) The Corporation must comply with a direction under subsection (8).

20B Annual operational plans

- (1) Before the beginning of each financial year, the Corporation must:

- (a) prepare a plan for the financial year concerned, setting out the details of:
- (i) the strategies the Corporation proposes to pursue; and
 - (ii) the activities the Corporation proposes to carry out; and
 - (iii) the resources the Corporation proposes to allocate to each such activity;
- during the financial year in giving effect to the winding-up plan; and
- (b) give a copy of the first-mentioned plan to the Minister.

- (2) A plan prepared under subsection (1) is to be known as *an annual operational plan*.

- (3) The Corporation must keep the Minister informed about matters that arise that might significantly affect the carrying out of an annual operational plan.
- (4) The Corporation may vary an annual operational plan.
- (5) If the Corporation varies the annual operational plan, the Corporation must give a copy of the variation to the Minister.
- (6) The Minister may direct the Corporation to vary an annual operational plan.
- (7) The Corporation must comply with a direction under subsection (6).

Part IVB—Transfers of assets, contracts and liabilities from State bodies to the Corporation

20C Definitions

In this Part:

contract includes:

- (a) a deed; and
- (b) a deed poll.

instrument includes a document.

relevant State body:

- (a) in relation to New South Wales—means the Albury-Wodonga (New South Wales) Corporation; and
- (b) in relation to Victoria—means the Albury-Wodonga (Victoria) Corporation.

20D Transfer of assets to Corporation

- (1) It is the intention of the Parliament that a law of New South Wales or Victoria may:

- (a) transfer an asset from the relevant State body to the Corporation; and
 - (b) provide for matters incidental to the transfer.
- (2) Such a transfer may be by way of a provision that vests the asset in the Corporation without any conveyance, assignment or instrument of transfer.

Minister must consent to transfer

- (3) However, a law of New South Wales or Victoria is not effective to transfer the asset from the relevant State body to the Corporation unless the Minister, by notice in the *Gazette*, consents to the transfer of:
- (a) the asset; or
 - (b) a class of assets in which the asset is included.

Matters incidental to transfer

- (4) The following are examples of matters incidental to the transfer of an asset from a relevant State body to the Corporation:
- (a) that an instrument relating to the asset continues to have effect after the asset vests in the Corporation as if a reference in the instrument to the relevant State body were a reference to the Corporation;
 - (b) that the Corporation becomes the successor in law of the relevant State body in relation to an asset immediately after the asset vests in the Corporation;
 - (c) if any proceedings to which the relevant State body was a party:
 - (i) were pending in any court or tribunal immediately before the transfer; and
 - (ii) related, in whole or in part, to the asset;that the Corporation is substituted for the relevant State body as a party to the proceedings to the extent to which the proceedings relate to the asset.

20E Transfer of contractual rights and obligations to Corporation

- (1) It is the intention of the Parliament that a law of New South Wales or Victoria may:
-

- (a) transfer the relevant State body's rights and obligations under a contract from the relevant State body to the Corporation;
and
 - (b) provide for matters incidental to the transfer.
- (2) Such a transfer may be by way of a provision under which a relevant State body's rights and obligations under the contract:
- (a) cease to be rights and obligations of the relevant State body at a particular time; and
 - (b) become rights and obligations of the Corporation at that time.

Minister must consent to transfer

- (3) However, a law of New South Wales or Victoria is not effective to transfer the relevant State body's rights and obligations under the contract from the relevant State body to the Corporation unless the Minister, by notice in the *Gazette*, consents to the transfer of:
- (a) rights and obligations under the contract; or
 - (b) rights and obligations under a class of contracts in which the contract is included.

Matters incidental to transfer

- (4) The following are examples of matters incidental to the transfer of a relevant State body's rights and obligations under a contract from the relevant State body to the Corporation:
- (a) that the contract continues to have effect, after the relevant State body's rights and obligations under the contract become rights and obligations of the Corporation, as if a reference in the contract to the relevant State body were a reference to the Corporation;
 - (b) that an instrument relating to the contract continues to have effect, after the relevant State body's rights and obligations under the contract become rights and obligations of the Corporation, as if a reference in the instrument to the relevant State body were a reference to the Corporation;
 - (c) that the Corporation becomes the relevant State body's successor in law, in relation to the relevant State body's rights and obligations under the contract, immediately after the relevant State body's rights and obligations under the contract become rights and obligations of the Corporation;

- (d) if any proceedings to which the relevant State body was a party:
 - (i) were pending in any court or tribunal immediately before the transfer; and
 - (ii) related, in whole or in part, to those rights or obligations;that the Corporation is substituted for the relevant State body as a party to the proceedings to the extent to which the proceedings relate to those rights or obligations.

20F Transfer of liabilities to Corporation

- (1) It is the intention of the Parliament that a law of New South Wales or Victoria may:
 - (a) transfer a liability from the relevant State body to the Corporation; and
 - (b) provide for matters incidental to the transfer.
- (2) Such a transfer may be by way of a provision under which the liability:
 - (a) ceases to be a liability of the relevant State body at a particular time; and
 - (b) becomes a liability of the Corporation at that time.

Minister must consent to transfer

- (3) However, a law of New South Wales or Victoria is not effective to transfer the liability from the relevant State body to the Corporation unless the Minister, by notice in the *Gazette*, consents to the transfer of:
 - (a) the liability; or
 - (b) a class of liabilities in which the liability is included.

Matters incidental to transfer

- (4) The following are examples of matters incidental to the transfer of a liability from the relevant State body to the Corporation:
 - (a) that an instrument relating to the liability continues to have effect after the liability becomes a liability of the Corporation

- as if a reference in the instrument to the relevant State body were a reference to the Corporation;
- (b) that the Corporation becomes the relevant State body's successor in law in relation to the liability immediately after the liability becomes a liability of the Corporation;
 - (c) if any proceedings to which the relevant State body was a party:
 - (i) were pending in any court or tribunal immediately before the transfer; and
 - (ii) related, in whole or in part, to the liability;that the Corporation is substituted for the relevant State body as a party to the proceedings to the extent to which the proceedings relate to the liability.

20G This Part does not authorise the imposition of taxation

This Part does not authorise the imposition of taxation within the meaning of section 55 of the Constitution.

20H Compensation—constitutional safety-net

- (1) If:
 - (a) apart from this section, the operation of this Part would result in the acquisition of property from a person otherwise than on just terms; and
 - (b) the acquisition would be invalid because of paragraph 51(xxxi) of the Constitution;the Commonwealth is liable to pay compensation of a reasonable amount to the person in respect of the acquisition.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.
- (3) In this section:
acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

52 Subsection 21(5)

Omit “for purposes related to the development of the growth complex”.

53 Paragraph 26(1)(a)

Repeal the paragraph.

54 Subsection 28(1)

Omit “Agreement” (wherever occurring), substitute “Winding-up Agreement”.

55 Section 29

Repeal the section.

56 Subsection 30(1)

Omit “Australian”.

57 Subsection 30(3)

Omit “Australian”.

58 Subsection 30(4)

Repeal the subsection.

59 Before section 32

Insert:

31A Delegation by Minister

- (1) The Minister may, by writing, delegate to:
 - (a) the Secretary to the Department; or
 - (b) a person holding or performing the duties of a Senior Executive Service office (within the meaning of the *Public Service Act 1922*); or
 - (c) an SES employee or acting SES employee;all or any of the Minister’s powers under this Act (other than section 5A).

(2) The delegate is, in the exercise of the power delegated under subsection (1), subject to the directions of the Minister.

60 Paragraph 32(a)

Omit all the words after “Finance,”, substitute “of the Corporation’s operations during that year together with financial statements in respect of that year; and”.

61 Paragraph 32(b)

Omit “Australian Minister, for presentation to the Parliament; and”, substitute “Minister, for presentation to the Parliament.”.

62 Paragraph 32(c)

Repeal the paragraph.

63 Section 33

Omit “Australian”.

64 Schedules 1, 2 and 3

Repeal the Schedules.

65 Application—subsection 10(3) of the *Albury-Wodonga Development Act 1973*

Subsection 10(3) of the *Albury-Wodonga Development Act 1973* as amended by this Act applies to appointments made after the commencement of this item.

66 Application—subsection 10(7) of the *Albury-Wodonga Development Act 1973*

Despite the repeal of subsection 10(7) of the *Albury-Wodonga Development Act 1973* by this Schedule, that subsection continues to apply, in relation to appointments made before the commencement of this item, as if that repeal had not happened.

67 Transitional—chief executive officer

To avoid doubt, the amendments of the *Albury-Wodonga Development Act 1973* made by this Schedule do not affect the continuity of anything done under section 10A of that Act before the commencement of this item.

68 Transitional—section 17 of the *Albury-Wodonga Development Act 1973*

- (1) This item applies to a determination that was in force under section 17 of the *Albury-Wodonga Development Act 1973* immediately before the commencement of this item.
- (2) The determination has effect, after the commencement of this item, as if it were a determination made by the Minister under section 17 of the *Albury-Wodonga Development Act 1973* as amended by this Act.

69 Transitional—subsection 18(8) of the *Albury-Wodonga Development Act 1973*

- (1) This item applies to a determination that was in force under subsection 18(8) of the *Albury-Wodonga Development Act 1973* immediately before the commencement of this item.
- (2) The determination has effect, after the commencement of this item, as if it were a determination made by the Minister under subsection 18(8) of the *Albury-Wodonga Development Act 1973* as amended by this Act.

70 Transitional—subsection 20B(1) of the *Albury-Wodonga Development Act 1973*

Subsection 20B(1) of the *Albury-Wodonga Development Act 1973* applies to a financial year that commences after the commencement of this item.

71 Application—paragraph 32(a) of the *Albury-Wodonga Development Act 1973*

Despite the amendment of paragraph 32(a) of the *Albury-Wodonga Development Act 1973* made by this Schedule, that paragraph continues to apply, in relation to a financial year during any part of which a State Corporation is in existence, as if that amendment had not been made.

**Schedule 2—Repeal of the Albury-Wodonga
Development (Financial Assistance)
Act 1973**

*Albury-Wodonga Development (Financial Assistance) Act
1973*

1 The whole of the Act

Repeal the Act.

*[Minister's second reading speech made in—
House of Representatives on 24 November 1999
Senate on 6 March 2000]*

(209/99)
