

1990-91

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 13 March 1991

(*Minister for Local Government*)

A BILL

FOR

An Act to amend the *Albury-Wodonga Development Act 1973*

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title etc.

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

(2) In this Act, “**Principal Act**” means the *Albury-Wodonga Development Act 1973*¹.

Commencement

2. (1) Sections 1, 2 and 5 commence on the day on which this Act receives the Royal Assent.

(2) Subject to subsection (3), section 18 commences on a day to be fixed by Proclamation.

(3) If the commencement of section 18 is not fixed by Proclamation published in the *Gazette* within the period of 6 months beginning on the day on which this Act receives the Royal Assent, that section is repealed on the first day after the end of that period.

(4) The remaining provisions of this Act commence on a day to be fixed by Proclamation, not being a day earlier than the day on which the agreement referred to in section 6B of the Principal Act as amended by this Act is executed.

Interpretation

3. Section 3 of the Principal Act is amended:

(a) by omitting from the definition of "Agreement" in subsection (1) "agreement approved by section 6A" and substituting "agreements approved by sections 6A and 6B";

(b) by omitting from subsection (1) the definition of "appointed member" and substituting the following definition:
" 'appointed member' means a member other than the chief executive officer;";

(c) by omitting from subsection (1) the definition of "part-time member";

(d) by inserting in subsection (1) the following definitions:
" 'chief executive officer' means the highest ranked member of the staff of the Corporation, however designated;
'Council representative' means a member referred to in paragraph 10 (1) (c) or (d);".

Act to bind Crown

4. Section 4 of the Principal Act is amended by omitting "or" and substituting "and".

5. After section 6A of the Principal Act the following section is inserted:

Approval of second amendment agreement

"6B. The Parliament approves the execution on behalf of the Commonwealth of an agreement substantially in accordance with the form of agreement set out in Schedule 2."

6. After section 8 of the Principal Act, the following section is inserted:

Chief executive officer's function

“8A. The chief executive officer is responsible for the day-to-day management of the Corporation's affairs.”.

Composition of Corporation

7. Section 10 of the Principal Act is amended:

(a) by omitting subsections (1) and (2) and substituting the following subsections:

“(1) The Corporation consists of:

(a) the Chairperson; and

(b) 2 Deputy Chairpersons; and

(c) a representative of the Council of the City of Albury; and

(d) a representative of the Council of the Rural City of Wodonga; and

(e) 2 other members; and

(f) the chief executive officer.

“(2) The appointed members are to be appointed by the Governor-General.”;

(b) by omitting subsection (5).

8. After section 10 of the Principal Act the following section is inserted:

Appointment of chief executive officer

“10A. The chief executive officer is to be appointed by the appointed members, and holds office on terms and conditions determined by the appointed members.”.

Period of appointment of appointed members

9. Section 11 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

“(1) An appointed member is to be appointed on a part-time basis for a period not exceeding 3 years.”.

Remuneration and allowances for appointed members

10. Section 12 of the Principal Act is amended:

(a) by omitting from subsection (1) “A member” and substituting “An appointed member”;

(b) by omitting from subsection (2) “A member” and substituting “An appointed member”;

(c) by omitting from subsection (3) “a part-time” and substituting “an appointed”.

11. Section 13 of the Principal Act is repealed.

Dismissal of appointed members

12. Section 15 of the Principal Act is amended:

- (a) by omitting paragraphs (2) (a) and (b);
- (b) by omitting from paragraph (2) (c) “being a part-time member,”.

Condition of service—appointed member

13. Section 17 of the Principal Act is amended by omitting “members” and substituting “appointed members”.

Acting appointments

14. Section 18 of the Principal Act is amended:

- (a) by omitting from subsection (5) “part-time member” (first occurring) and substituting “member referred to in paragraph 10 (1) (e)”;
- (b) by omitting from subsection (5) “part-time” (second occurring);
- (c) by omitting from subsection (6) “part-time member” and substituting “member under subsection (5)”;
- (d) by inserting after subsection (6) the following subsections:

“(6A) Where a Council representative is unable (whether on account of illness or otherwise) to attend the Corporation’s meetings, the Australian Minister may appoint a member of the relevant Council to be an acting member during the Council representative’s absence.

“(6B) Before the Australian Minister makes an appointment under subsection (6A), the Minister must seek advice from the relevant Council as to a possible acting member.

“(6C) An acting member appointed under subsection (6A) has all the functions, powers and duties of a Council representative.”.

Meetings

15. Section 19 of the Principal Act is amended:

- (a) by omitting from subsection (4) “members” and substituting “appointed members”;
- (b) by omitting from subsection (7) “members” and substituting “appointed members”.

Annual Report

16. Section 32 of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

- “(a) prepare a report, in the form approved by the Minister for Finance, of:

(i) the Corporation's operations; and
(ii) the State Corporations' operations;
during that year together with financial statements in respect of that year; and".

5 **Annual financial statement**

17. Section 33 of the Principal Act is amended by omitting "financial statements" and inserting "Corporation's financial statements".

18. After section 21 of the Principal Act, the following section is inserted:

0 **Persons appointed under section 21 to have certain rights of entry into the Australian Public Service**

"22. (1) In this section, unless the contrary intention appears:

'Corporation officer' means a person who is an appointed officer of the Corporation;

15 'Department', 'office', 'Secretary' and 'Service' have the same respective meanings as they have in the Public Service Act;

'non-appellable promotion', 'promotion' and 'vacancy' have the same respective meanings as they have in Division 4 of Part III of the Public Service Act;

20 'Public Service Act' means the *Public Service Act 1922*.

"(2) Where, under section 50, 50DA or 50DB of the Public Service Act, notification of a vacancy in an office in a Department is given in the *Gazette*, a Corporation officer may apply for appointment to the office.

25 "(3) Where:

(a) a Corporation officer applies under subsection (2) for appointment to an office in a Department; and

(b) the Secretary of the Department is satisfied that the Corporation officer should be appointed to the office;

30 the Public Service Commissioner may appoint the Corporation officer to the office, in accordance with section 42 or 43 of the Public Service Act.

35 "(4) Despite section 47 of the Public Service Act, the appointment of a Corporation officer to an office in a Department must not be an appointment on probation if the Corporation officer's appointment as an officer of the Corporation under section 21:

(a) was an appointment without probation; or

(b) was an appointment on probation and has been confirmed.

40 "(5) Where the Public Service Commissioner appoints a Corporation officer to an office in a Department the following provisions have effect:

(a) the provisions of Subdivision D of Division 4 of Part III of the

Public Service Act and the provisions of the *Merit Protection (Australian Government Employees) Act 1984* apply to and in relation to the appointment as if:

- (i) the appointment were a promotion (in this subsection referred to as the **'deemed promotion'**) of the Corporation officer to the office by the Secretary of the Department, being a promotion:
 - (A) in a case where the appointment is in accordance with the advice of a Joint Selection Committee constituted for the purposes of section 50DA—made under section 50DA of the Public Service Act; or
 - (B) in the case where the appointment is in accordance with the unanimous advice of a Joint Selection Committee constituted for the purposes of section 50DB of the Public Service Act—made under section 50DA of the Public Service Act; or
 - (C) in any other case—made under section 50 of the Public Service Act; and
 - (ii) the Corporation officer were an officer within the meaning of the Public Service Act;
- (b) the deemed promotion takes effect as provided for in section 50E of the Public Service Act;
- (c) except where paragraph (d) or (e) applies, the appointment does not take effect from the making of the appointment but takes effect on the day (if any) on which the deemed promotion takes effect;
- (d) where:
- (i) the deemed promotion is a non-appellable promotion; and
 - (ii) an application for review of the deemed promotion by the Merit Protection and Review Agency has been lodged under subsection 50DA (1); and
 - (iii) the Merit Protection and Review Agency makes a decision in writing under subparagraph 50DAA (3) (b) (i) affirming the promotion;
- the appointment does not take effect unless and until that decision is made;
- (e) where:
- (i) the deemed promotion is a non-appellable promotion; and
 - (ii) an application for review of the deemed promotion by the Merit Protection and Review Agency has been lodged under subsection 50DAA (1); and
 - (iii) the Merit Protection and Review Agency has

recommended to the Secretary under subsection 50DAA (4) that the promotion be cancelled;

the appointment does not take effect unless and until the Secretary makes a decision under subsection 50DAA (6) not to cancel the promotion;

(f) the Corporation officer is taken to be absent from the Service on leave of absence without pay until he or she begins to perform the duties of the office;

(g) if the Corporation officer does not begin to perform the duties of the office within a reasonable time after the appointment takes effect, the Public Service Commissioner or the Secretary of the Department may cancel the appointment.

Transitional arrangements for existing members

19. (1) In this section, “**appointed member**” means an executive member or a member referred to in paragraph 10 (1) (e) of the Principal Act.

(2) A person who was holding office as an appointed member of the Corporation immediately before the commencement of this Act, continues to hold office on the same terms and conditions as existed immediately before that commencement, but the Chairperson holds office on a part-time basis.

Amendments to remove gender—specific language

20. The Principal Act is amended as set out in Schedule 1.

Addition to Schedule

21. The Principal Act is amended by adding at the end the Schedule set out in Schedule 2 to this Act.

**SCHEDULE 1—SCHEDULE TO BE ADDED TO
PRINCIPAL ACT**

SCHEDULE 3

Section 20
Section 6B

**AMENDMENTS TO REMOVE GENDER—SPECIFIC LANGUAGE
FROM THE PRINCIPAL ACT**

1. The following provisions of the Principal Act are amended by omitting the word “Chairman” and substituting “Chairperson” (wherever occurring):

subsections 3 (1) (definitions of “Chairman”, “Deputy Chairman” and “executive member”), 10 (3), 18 (1), (2), (3) and (4), 19 (2), (3), (5) and (6).

2. In the following table, the provision of the Principal Act specified in Column 1 is amended by:

- (a) omitting the word or words constituting the entry or each entry in Column 2 of the item; and
- (b) if a word or words occur in Column 3 of the item opposite to such entry, substituting the word or words for the word or words constituting the entry.

Column 1	Column 2 Omit	Column 3 Substitute
5 (1)	he	the Minister
5 (2)	him	him or her
8 (3)	he	the Minister
10 (7)	his	the member's
11 (3)	he	the person
12 (1)	he	a member
12 (3)	he (first occurring)	he or she
	he (second occurring)	the member
	he reasonably incurs by reason of his being a member	are reasonably incurred by reason of the person being a member
14	his	
	him	him or her
15 (1) (d)	his (wherever occurring)	his or her
16 (1) (c)	his (wherever occurring)	his or her
30 (2)	, at his discretion,	
30 (4)	he	the Minister
30 (5)	him	the Auditor-General
30 (6)	him	the Auditor-General
30 (7)	him (first occurring)	the Auditor-General
30 (7)	furnish him with	provide

SCHEDULE 2

Section 21

**ALBURY-WODONGA AREA DEVELOPMENT AGREEMENT
AMENDMENT AGREEMENT (No. 2)**

AN AGREEMENT (to be called the “Albury-Wodonga Area Development Agreement Amendment Agreement (No. 2)”) made this day of One thousand nine hundred and BETWEEN THE COMMONWEALTH OF AUSTRALIA, THE STATE OF NEW SOUTH WALES, and THE STATE OF VICTORIA.

WHEREAS the Australian, New South Wales and Victorian Governments have agreed that certain amendments should be made to an agreement made between the parties on 23 October 1973 and called the “Albury-Wodonga Area Development Agreement”, as amended by an agreement made between the parties on 4 September 1978 and called the “Albury-Wodonga Area Development Agreement Amendment Agreement (No. 1)”, (hereinafter referred to as “the principal agreement”).

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

1. Unless the contrary intention appears, expressions used in this agreement have the same meanings as they have in the principal agreement.
- 2 (1) This agreement, other than this sub-clause and sub-clause (2) of this clause, shall have no force or effect and shall not be binding on any of the parties unless and until it is approved by the Parliaments of Australia, the State of New South Wales and the State of Victoria, but upon being so approved by all of those Parliaments, it shall be of full force and effect and binding on the parties.
- (2) The Australian, New South Wales and Victorian Governments will submit this agreement for approval to their respective Parliaments as soon as practicable after the date of this agreement.

Definitions

3. Clause 1 of the principal agreement is amended by:
 - (a) deleting the definitions of:
 - ‘Approved Albury-Wodonga Development Plan’;
 - ‘Approved Financial Program’;
 - ‘Mayor of the City of Albury’; and
 - ‘Mayor of the Rural City of Wodonga’.

SCHEDULE 2—continued

(b) inserting the following definition after the definition of 'Australia':

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

4. Sub-clause 2 (6) of the principal agreement is amended by:
- (a) deleting paragraphs (a) and (b) and substituting the following paragraph:
“(a) to carry out investigations and studies, consult with planning authorities and bodies in or having responsibility for the Area and advise such bodies or the State Ministers responsible for planning on regional planning issues; and”;
 - (b) altering the reference to paragraph (c) to paragraph (b).

Ministerial Council

5. Sub-clause 4 (2) of the principal agreement is amended by deleting paragraph (a) and substituting the following paragraph:
“(a) The members of the Ministerial Council will be the Australian Minister for Immigration, Local Government and Ethnic Affairs, the New South Wales Minister for Business and Consumer Affairs and the Victorian Minister for Manufacturing and Industry Development.”

Development Corporation

6. Clause 5 of the principal agreement is deleted and the following clause substituted:
- “5 (1) The Albury-Wodonga Development Corporation will be a corporation aggregate consisting of eight members, including an ex-officio member, who shall be the chief executive officer of the Development Corporation.
- (2) The members, excepting the ex-officio member, will be appointed by the Governor-General, or the person who is at the date of the relevant appointment the person administering the Government of Australia, acting with the advice of the Federal Executive Council, and will hold office—
- (a) on such terms and conditions as are set out in the Australian Act; and
 - (b) subject to that Act, on such other terms and conditions as are determined from time to time by the Ministerial Council.
- (3) The Chairperson will be appointed on the recommendation of the Australian Minister and, subject to any provisions in the Australian Act concerning the Chairperson's removal from office, will hold office for such period, not exceeding
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SCHEDULE 2—continued

- three years, as is specified in the instrument of appointment and will be eligible for reappointment.
- (4) There will be two Deputy Chairpersons each of whom will be appointed on the recommendation of the Australian Minister, one on the nomination of each State Minister and, subject to any provisions in the Australian Act concerning the Deputy Chairperson's removal from office, will hold office for such period, not exceeding three years, as is specified in the instrument of appointment and will be eligible for reappointment.
- (5) Four of the members will be appointed on the recommendation of the Australian Minister and will comprise:
- (a) two members recommended by the New South Wales Minister with the concurrence of the Australian Minister, whether before or after the commencement of this sub-clause from the following persons:
 - (i) one from a group of persons nominated, on a basis to be determined from time to time by the Ministerial Council; and
 - (ii) one from the Council of the City of Albury.
 - (b) two members recommended by the Victorian Minister with the concurrence of the Australian Minister, whether before or after the commencement of this sub-clause, from the following persons:
 - (i) one from a group of persons nominated, on a basis to be determined from time to time by the Ministerial Council; and
 - (ii) one from the Council of the Rural City of Wodonga.
- (6) A member appointed under sub-clause (5) of this clause will be appointed for a period, not exceeding three years, as is specified in the instrument of appointment.
- (7) The ex-officio member will be responsible for the detailed day-to-day management and activities of the Development Corporation.
- (8) The members will participate fully in meetings of the Development Corporation which they attend, but will not participate directly in the detailed day-to-day management and activities of the Development Corporation.
- (9) A quorum of the Development Corporation shall be constituted by a majority of the members for the time being holding office, provided that the presence of the ex-officio member shall not be counted for the purpose of determining whether a quorum exists.

SCHEDULE 2—continued

- (10) In the absence of the Chairperson, a Deputy Chairperson will preside at meetings of the Development Corporation. Where the Chairperson is absent from such a meeting, the Deputy Chairperson to preside will be determined in accordance with the procedure determined for that purpose by the Development Corporation.
- (11) Questions arising at a meeting of the Development Corporation will be determined by a majority of votes of the members present and voting, except that the ex-officio member shall not have a vote. Where there is an equality of votes, the Chairperson or the Deputy Chairperson, as the case may be, shall have a casting vote, as well as a deliberative vote.
- (12) Subject to any directions given by the Ministerial Council, a member of the Development Corporation may request the Development Corporation to refer any matter with which the Development Corporation is concerned to the Ministerial Council for consideration and decision and the Development Corporation shall comply with such a request.
- (13) Subject to this agreement, the functions of the Development Corporation will be to do all things necessary or convenient to be done for or in connexion with the development of the growth complex and, without limiting the generality of the foregoing, the Development Corporation may:
 - (a) carry out and supervise development works including—
 - (i) buildings and structures of all kinds;
 - (ii) gardens and plantations;
 - (iii) roads and streets and associated lighting, parking areas, footpaths, guttering, ramps, and all things necessary for the control of traffic by vehicles, pedestrians and animals;
 - (iv) bridges and associated works;
 - (v) works for the supply and reticulation of water, electricity and gas;
 - (vi) sewerage, sewage treatment works and drainage works;
 - (vii) levees and river protection works;
 - (viii) wharves, jetties, marinas and ferries;
 - (ix) public amenities including baths, bathing areas and other areas for sport and recreation; and
 - (x) all other works for or incidental to the foregoing;
 - (b) negotiate with Australian, State and Local Government authorities for the purpose of arranging or providing services and facilities in the growth complex;

SCHEDULE 2—continued

- (c) construct shops, offices and factories to be made available to a State Corporation for use on a commercial basis in conjunction with State authorities;
 - (d) create job opportunities by encouraging the setting up of industries and other investment in the growth complex;
 - (e) carry out other functions of a promotional character determined from time to time by the Ministerial Council.
- (14) The Development Corporation shall, as far as possible, consult and have regard to the views of the relevant Australian and State officers, Departments and statutory bodies, Local Government bodies and community groups in relation to the development of the growth complex.
- (15) Where such an officer or a Department or body has a discretion to determine a matter which relates to the development of the growth complex and agreement is not reached as a result of the consultations in relation to that matter, the matter shall be referred by the Development Corporation through the Australian Minister or relevant State Minister, as the case requires, to the Ministerial Council to enable the appropriate steps to be taken to resolve the matter.
- (16) The Ministerial Council may give directions to the Development Corporation concerning the performance of its functions, the exercise of its powers and its procedure, and the Development Corporation shall comply with those directions.”

State Corporations

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

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

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

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

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

SCHEDULE 2—continued

- (3) In the case of each State Corporation:
 - (a) the Chairperson will be appointed by the Governor of the State on the recommendation of the State Minister of the constituting State; and
 - (b) each Deputy Chairperson will be appointed by the Governor of the State, one on the recommendation of the other State Minister and one on the recommendation of the Australian Minister.
- (4) In the case of each State Corporation four of the members of each State Corporation will be appointed on the recommendation of the State Minister of the constituting State and will comprise:
 - (a) two members recommended by the New South Wales Minister with the concurrence of the Australian Minister, whether before or after the commencement of this sub-clause, from the following persons:
 - (i) one from a group of persons nominated, on a basis to be determined from time to time by the Ministerial Council; and
 - (ii) one from the Council of the City of Albury.
 - (b) two members recommended by the Victorian Minister with the concurrence of the Australian Minister, whether before or after the commencement of this sub-clause, from the following persons:
 - (i) one from a group of persons nominated, on a basis to be determined from time to time by the Ministerial Council; and
 - (ii) one from the Council of the Rural City of Wodonga.
- (5) The Chairperson shall be subject in all respects to the control and direction of the relevant State Minister in the exercise and discharge of his responsibilities, powers, authorities, duties and functions.
- (6) Each member, except the ex-officio member, will hold office for such period, not exceeding three years, as is specified in the instrument of appointment:
 - (a) on such terms and conditions as are set out in the relevant Act of the constituting State; and
 - (b) subject to that Act, on such other terms and conditions as are determined from time to time by the Ministerial Council.
- (7) A quorum of a State Corporation shall be constituted by a majority of the members for the time being holding office provided that the presence of the ex-officio member shall

SCHEDULE 2—continued

not be counted for the purpose of determining whether a quorum exists.

- (8) In the absence of the Chairperson, a Deputy Chairperson shall preside at meetings of a State Corporation. Where the Chairperson is absent from such a meeting, the Deputy Chairperson to preside will be determined in accordance with principles agreed to by the State Corporation.
 - (9) Questions arising at a meeting of a State Corporation will be determined by a majority of votes of the members present and voting, except the ex-officio member shall not have a vote. Where there is an equality of votes, the Chairperson or presiding Deputy Chairperson, as the case may be, shall have a casting vote, as well as a deliberative vote.
 - (10) The Ministerial Council may give directions to a State Corporation concerning the performance of its functions and the exercise of its powers and its procedures, and the State Corporation shall comply with those directions.
 - (11) In this clause, “the constituting State” means the State by the Act of whose Parliament the relevant State Corporation was constituted.
 - (12) In this clause, the reference to the Governor is a reference—
 - (a) in the case of the State of New South Wales, to the person who is, at the date of the relevant appointment, the Governor of that State, or the person lawfully administering the Government of New South Wales, acting with the advice of the Executive Council of that State; and
 - (b) in the case of the State of Victoria, to the person who is, at the date of the relevant appointment, administering the Government of Victoria with the advice of the Executive Council of that State.
8. Clause 9 of the principal agreement and its heading are deleted and the following clause and heading are substituted:
- “Comprehensive Forward Plan
- 9 (1) The Development Corporation shall prepare and submit for approval by the Ministerial Council each year, by a date determined by the Ministerial Council, a Comprehensive Forward Plan for the development of the growth centre for the period to which it relates in a form, and having the content, specified by the Ministerial Council from time to time.

SCHEDULE 2—continued

- (2) The Ministerial Council may amend a Comprehensive Forward Plan, after consultation with the Development Corporation and the State Corporations.
 - (3) The Development Corporation and each State Corporation shall comply with any Comprehensive Forward Plan approved by the Ministerial Council.”
9. Clause 10 of the principal agreement and its heading are deleted and the following clause and heading are substituted:
“Revenues and Expenses of Corporations
10. All revenues of whatsoever nature payable to each State Corporation, including those payable in respect of land, buildings and other assets or works vested in the State Corporation, shall be paid to the Development Corporation, which shall meet all expenditure, approved by the Ministerial Council, for and on behalf of each State Corporation in relation to the growth centre.”
10. Clause 12 of the principal agreement and its heading is deleted and clause 13 is renumbered clause 12.
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NOTE

1. No. 189, 1973, as amended. For previous amendments, see No. 37, 1976; No. 36, 1978; No. 96, 1979; No. 63, 1984; No. 65, 1985; and No. 28, 1986.

