

Project Development and Construction Management (Amendment) Bill

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EXPLANATORY MEMORANDUM

General

The purpose of this Bill is to amend the **Project Development and Construction Management Act 1994** to establish the Secretary to the Department of State and Regional Development as a body corporate and to provide for its powers and functions and the transfer of certain matters to it.

Clause Notes

- Clause 1 sets out the purpose of the Act.
- Clause 2 provides for the commencement of the Act on 1 January 2001.
- Clause 3 provides that in this Bill the **Project Development and Construction Management Act 1994** is called the Principal Act.
- Clause 4 amends the purposes of the Principal Act to reflect that these purposes will also include the establishment of the Secretary to the Department of State and Regional Development as a body corporate and the transfer of certain matters to that body.
- Clause 5 Sub-clause (1) inserts new definitions of the terms "Secretary to the Department of Infrastructure" and "Secretary to the Department of State and Regional Development" in section 3 of the Principal Act. Sub-clause (1) also repeals the definition of "the Department" as this is no longer required as each Department is specifically referred to as appropriate.
- Sub-clause (2) makes a consequential amendment to section 3(2) of the Act to ensure that it refers to both the Secretary to the Department of Infrastructure and the Secretary to the Department of State and Regional Development.

Clause 6 amends section 5(4) of the Principal Act to provide that functions of the Secretary to the Department of State and Regional Development as a body corporate under the new Part 5A are not derogated from if an application order under the Act confers a function on that Secretary as a facilitating agency.

Clause 7 Sub-clause (1) makes a consequential amendment to the heading to Part 5.

The Secretary to the Department of Infrastructure is a body corporate constituted by the person who is the Departmental Head and the successors in office of that person, so the term "official seal" is more appropriate.

Sub-clause (2) amends section 35(1) to make it clear that the Department referred to in this section is the Department of Infrastructure and changes the reference to "common seal" to "official seal".

Sub-clause (3) amends section 35(2) and (3) so that the Secretary to the Department of Infrastructure is required to keep an official seal, rather than a common seal, as section 35(2) currently provides. The inserted sub-section (3) provides for judicial notice to be taken of the official seal, to reflect the changes made in respect of the seal.

Clause 8 makes consequential amendments to sections 37, 38, 39, 40 and 41 of the Principal Act to make it clear that the Secretary referred to in those sections is the Secretary to the Department of Infrastructure and the employees referred to in section 41 are the employees of the Department of Infrastructure.

Clause 9 inserts a new Part 5A into the Principal Act. This Part establishes the Secretary to the Department of State and Regional Development as a body corporate (new section 41A), sets out the powers and functions of the new body corporate (new sections 41B and 41C), provides that the new body corporate is subject to Ministerial control (new section 41D), provides that the Secretary's powers and functions as a department head are not affected by the powers and functions of the new body corporate (new section 41E) and gives the new body corporate the power to delegate certain powers and functions to employees in the Department of State and Regional Development (new section 41F).

Clause 10 amends sections 45(3) to provide that section 45 (which relates to the Registrar of Titles' power to make necessary recordings in the Register) does not apply to the new Part 8 of the Act in addition to not applying to Part 7. A specific power for Part 8 is included in that new Part.

Clause 11 makes a consequential amendment to section 47(1) of the Principal Act to define "Secretary" for the purposes of Part 7 as the Secretary to the Department of Infrastructure as constituted under section 35.

Clause 12 inserts a new Part 8 into the Principal Act. This Part will provide for current assets and liabilities of the Secretary to the Department of Infrastructure as a facilitating agency for certain major projects to be transferred to the Secretary to the Department of State and Regional Development. This reflects the Secretary to the Department of State and Regional Development's role in relation to facilitating certain major projects.

An allocation statement mechanism will be used to transfer designated projects from the Secretary to the Department of Infrastructure to the Secretary to the Department of State and Regional Development. Once the transfer has occurred the new body corporate will be the facilitating agency in relation to those projects.

