

TASMANIA

MACQUARIE POINT DEVELOPMENT CORPORATION AMENDMENT BILL 2018

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MACQUARIE POINT DEVELOPMENT CORPORATION AMENDMENT BILL 2018

*(Brought in by the Minister for State Growth, the Honourable
Peter Carl Gutwein)*

A BILL FOR

**An Act to amend the *Macquarie Point Development
Corporation Act 2012***

Be it enacted by Her Excellency the Governor of Tasmania, by
and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Macquarie Point
Development Corporation Amendment Act 2018*.

2. Commencement

This Act commences on the day on which this
Act receives the Royal Assent.

3. Principal Act

In this Act, the *Macquarie Point Development
Corporation Act 2012** is referred to as the
Principal Act.

*No. 50 of 2012

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4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by inserting the following definition before the definition of *Board*:

Agency has the same meaning as in the *State Service Act 2000*;

- (b) by inserting the following definitions after the definition of *partner*:

Planning Minister means the Minister to whom the administration of the *Land Use Planning and Approvals Act 1993* is assigned;

planning scheme has the same meaning as in the *Land Use Planning and Approvals Act 1993*;

- (c) by inserting the following definitions after the definition of *relative*:

relevant planning scheme means the planning scheme that, under the *Land Use Planning and Approvals Act 1993*, applies from time to time to the site;

relevant planning scheme planning authority means the planning authority, within the meaning of

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the *Land Use Planning and Approvals Act 1993*, for any part of the land that comprises the site;

relevant statutory authority means –

- (a) the Corporation within the meaning of the *Water and Sewerage Corporation Act 2012*; and
- (b) any company established under the *Port Companies Act 1997*; and
- (c) a person, or body, established under an Act, that is prescribed for the purposes of this definition;
- (d) by omitting the definition of *site redevelopment plan* and substituting the following definition:

site master plan means the site master plan prepared under section 37;

5. Section 6 amended (Principal objectives of Corporation)

Section 6 of the Principal Act is amended as follows:

- (a) by inserting the following subparagraphs after subparagraph (ii) in paragraph (b):

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- (iia) encourages pedestrian and bicycle traffic; and
 - (iib) allows for public transport; and
 - (iic) provides for public open space; and
- (b) by inserting the following paragraph after paragraph (b):
 - (ba) to plan, facilitate and manage temporary and longer-term use of the site; and

6. Section 7 amended (Functions of Corporation)

Section 7 of the Principal Act is amended as follows:

- (a) by omitting paragraphs (a), (b) and (c) and substituting the following paragraphs:
 - (a) to plan, undertake, manage, or arrange for, the remediation of the site so that the site can be redeveloped;
 - (b) to investigate options for redevelopment of the site and prepare and implement strategies for ensuring the redevelopment of the site;

- (c) to redevelop and maintain, or ensure the redevelopment and maintenance of –
 - (i) public open space on the site; and
 - (ii) a corridor allowing transit through the site by means of public transport and pedestrian and bicycle traffic, so as to enable the connection of the site with areas adjacent to the site; and
 - (iii) such other corridors, to allow transit through the site by means of other forms of transport, as the Corporation or the Minister considers desirable;
- (ca) to encourage and provide, or ensure the encouragement and provision of, appropriate temporary and longer-term use of the site;
- (b) by inserting in paragraph (d) “, and those persons or bodies whom the Corporation considers to have an interest in relation to the redevelopment of the site,” after “community”;

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- (c) by inserting in paragraph (e) “and other areas of land” after “site”;
- (d) by omitting from paragraph (g) “site redevelopment plan” and substituting “site master plan”.

7. Section 8 amended (Powers of Corporation)

Section 8(3)(a) of the Principal Act is amended by omitting “2 years” and substituting “5 years”.

8. Section 10 amended (Responsibilities)

Section 10(1)(c) of the Principal Act is amended by omitting “site redevelopment plan” and substituting “site master plan”.

9. Section 15 amended (Chief executive officer)

Section 15 of the Principal Act is amended by omitting subsection (2).

10. Section 35A inserted

Before section 36 of the Principal Act, the following section is inserted in Division 1:

35A. Statement of ministerial expectations

- (1) The Minister may provide to the Board, not less than 3 months before the start of each financial year, a statement of

ministerial expectations in relation to the financial year of the Corporation.

- (2) The Minister is to have regard to the Corporation's objectives and functions in preparing a statement of ministerial expectations.
- (3) The Minister, by notice to the Board, may amend a statement of ministerial expectations in relation to a financial year of the Corporation.
- (4) The Board is to make available for viewing by members of the public, in the manner that the Board thinks fit, a copy of the statement of ministerial expectations last provided by the Minister, as amended, if at all, under subsection (3).
- (5) Subject to subsection (6), the Board must ensure that the business and affairs of the Corporation in relation to a financial year of the Corporation are conducted in a manner that is consistent with the statement of ministerial expectations in relation to the financial year.
- (6) In the event of an inconsistency between a statement of ministerial expectations and another requirement under this Act, the other requirement prevails to the extent of the inconsistency.

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11. Section 36 amended (Ministerial directions)

Section 36 of the Principal Act is amended by inserting after subsection (1) the following subsection:

- (1A) The directions that may be given under subsection (1) include a direction to the Board to –
- (a) prepare a report in connection with the functions and powers of the Corporation and provide it to the Minister; and
 - (b) provide to the Minister information in connection with the functions and powers of the Corporation.

12. Section 37 amended (Site master plan)

Section 37 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “site redevelopment plan” and substituting “site master plan”;
- (b) by omitting from subsection (2) “site redevelopment plan” and substituting “site master plan”;
- (c) by omitting from subsection (3) “site redevelopment plan” and substituting “site master plan”;

- (d) by omitting from subsection (4)(a) “site redevelopment plan” and substituting “site master plan”;
- (e) by omitting from subsection (4)(b) “site redevelopment plan” and substituting “site master plan”;
- (f) by omitting from subsection (5) “site redevelopment plan” and substituting “site master plan”;
- (g) by omitting from subsection (6) “site redevelopment plan” twice occurring and substituting “site master plan”;
- (h) by omitting from subsection (7) “site redevelopment plan” and substituting “site master plan”;
- (i) by omitting from subsection (8) “site redevelopment plan” and substituting “site master plan”.

13. Section 38 amended (Corporate plan)

Section 38 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “12 months” and substituting “3 years”;
- (b) by omitting from subsection (3) “site redevelopment plan” and substituting “site master plan”.

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14. Section 39 amended (Notification of matters)

Section 39(a) of the Principal Act is amended by omitting “site redevelopment plan” and substituting “site master plan”.

15. Section 39B amended (Corporation or Minister may enter into covenants and agreements affecting site)

Section 39B(2) of the Principal Act is amended by omitting “development” and substituting “redevelopment”.

16. Part 5, Division 3 inserted

After section 39F of the Principal Act, the following Division is inserted in Part 5:

Division 3 – Planning

39G. Corporation may request Minister to prepare proposed amendments to planning scheme

(1) The Board, by notice to the Minister, may request the Minister to prepare, in accordance with a draft, of the proposed amendments to the planning scheme, attached to the request –

(a) proposed amendments to the relevant planning scheme that are to apply to the area of land that is

within the site on the day on which this section commences; or

- (b) proposed amendments to the relevant planning scheme that are to apply to an area of land that is within the site but was not within the site on the day on which this section commences.

(2) The Board may only issue –

- (a) one request under subsection (1) for the purposes of subsection (1)(a); and
- (b) one request under subsection (1) for the purposes of subsection (1)(b) in relation to each area of land that is within the site but was not within the site on the day on which this section commences.

(3) The Board may only make a request to the Minister under subsection (1) if the Board has notified, of the Board's intention to make the request, the owners and occupiers of each area of land, any part of which adjoins any part of the site.

(4) A request under subsection (1) is to include –

- (a) a statement as to the consultation that the Board has undertaken in relation to the draft of the

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proposed amendments to the relevant planning scheme; and

(b) a statement setting out how the draft of the proposed amendments to the relevant planning scheme –

(i) furthers the requirements of the objectives set out in Schedule 1 to the *Land Use Planning and Approvals Act 1993*; and

(ii) is consistent with any applicable State Policy within the meaning of the *State Policies and Projects Act 1993*; and

(iii) is, as far as practicable, consistent with the Southern Regional Land Use Strategy made under the *Land Use Planning and Approvals Act 1993*.

39H. Preparation of proposed amendments

(1) The Minister, after receiving a request under section 39G(1) containing a draft of proposed amendments to the relevant planning scheme, must –

(a) prepare proposed amendments to the relevant planning scheme in

- the form of the draft of the proposed amendments to the relevant planning scheme to which the request relates; or
- (b) after consultation with the Board, prepare proposed amendments to the relevant planning scheme in the form of the draft of the proposed amendments to the relevant planning scheme to which the request relates, altered by the Minister as the Minister thinks fit; or
 - (c) require the Board to amend, in accordance with the requirement, the draft of the proposed amendments to the relevant planning scheme to which the request relates and make a new request under section 39G(1) in relation to the proposed amendments as amended in accordance with the requirement; or
 - (d) refuse to prepare proposed amendments to the relevant planning scheme.
- (2) The Minister must consult with the Planning Minister in preparing under subsection (1) proposed amendments to the relevant planning scheme.

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- (3) After preparing under subsection (1) proposed amendments to the relevant planning scheme and before approving the amendments under section 39I(1), the Minister must provide a notice specifying that the amendments have been prepared, and a copy of the proposed amendments, to –
- (a) the Board; and
 - (b) the relevant planning scheme planning authority; and
 - (c) each relevant statutory authority; and
 - (d) any Agency that the Minister considers has an interest in the proposed amendments to the relevant planning scheme.
- (4) A notice for the purposes of subsection (3) is to invite the persons or bodies to which it is provided to make, within 21 days after the notice is provided, representations to the Minister in relation to the proposed amendments.
- (5) A person or body to which a notice under subsection (3) has been provided may, within 21 days, make to the Minister representations in relation to the proposed amendments.

39I. Approval of proposed amendments to relevant planning scheme

- (1) The Minister, after considering all representations made under section 39H(5), may –
 - (a) approve proposed amendments to the relevant planning scheme that are to apply to the area of land that is within the site on the day on which section 39G commences; or
 - (b) approve proposed amendments to the relevant planning scheme that are to apply to the area of land that is within the site but was not within the site on the day on which section 39G commences; or
 - (c) refuse to approve proposed amendments to the relevant planning scheme.
- (2) The proposed amendments to the relevant planning scheme that are approved under subsection (1) are to be –
 - (a) in the form of the proposed amendments to which the notice under section 39H(3) relates; or
 - (b) after consultation with the Board, in the form, of the proposed amendments to which the notice

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under section 39H(3) relates,
altered as the Minister thinks fit.

- (3) As soon as practicable after approving under subsection (1) proposed amendments to the relevant planning scheme, the Minister must provide to the Commission –
- (a) a copy of the approval; and
 - (b) a copy of the proposed amendments to the relevant planning scheme to which the approval relates; and
 - (c) a statement setting out how the proposed amendments to the relevant planning scheme –
 - (i) further the requirements of the objectives set out in Schedule 1 to the *Land Use Planning and Approvals Act 1993*; and
 - (ii) are consistent with any applicable State Policy within the meaning of the *State Policies and Projects Act 1993*; and
 - (iii) are, as far as practicable, consistent with the Southern Regional Land Use Strategy made under

the *Land Use Planning
and Approvals Act 1993*;
and

- (d) a direction to the Commission to make the proposed amendments to the relevant planning scheme and publish, in the manner that the Commission thinks fit, the statement referred to in paragraph (c).

39J. Commission to amend relevant planning scheme

- (1) Within 14 days, or a longer period approved by the Minister, after the Commission receives under section 39I(3)(d) a direction to make proposed amendments to the relevant planning scheme, the Commission must –
 - (a) prepare amendments to the relevant planning scheme in the form of the proposed amendments to which the direction relates; and
 - (b) make the amendments to the relevant planning scheme.
- (2) If a direction is given to the Commission under section 39I(3)(d) to make proposed amendments to the relevant planning scheme, the Commission may, under

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subsection (1), make the proposed amendments altered so as to correct an anomaly or minor mistake that it is necessary to correct in order for the direction to be effectively implemented.

- (3) Without limiting the generality of subsection (2), the correction of a mistake or anomaly in accordance with that subsection includes the correction of a mistake or anomaly that has arisen by virtue of the relevant planning scheme having been amended in accordance with the direction.
- (4) Within 14 days, or a longer period approved by the Minister, after the Commission receives under section 39I(3)(d) a direction to make proposed amendments to the relevant planning scheme, the Commission must notify the Minister of the making of the amendments under subsection (1).
- (5) The Minister must, as soon as practicable after receiving a notice under subsection (4) –
 - (a) give notice in the *Gazette*, and in a newspaper circulating generally in Tasmania, of the making of the amendments to the relevant planning scheme and the day on which the amendments are to come into effect; and

- (b) notify the relevant planning scheme planning authority of –
 - (i) the making of the amendments; and
 - (ii) the day on which the amendments come into effect.
- (6) Amendments to the relevant planning scheme made under subsection (1) come into effect on –
 - (a) a day, after the date on which the amendments were made, specified in the notice in the *Gazette* as the day on which they come into effect; or
 - (b) if no day is specified in the notice in the *Gazette* as the day on which they come into effect – 7 days after the day on which the notice appears in the *Gazette*.
- (7) Amendments to the relevant planning scheme that have come into effect under subsection (6) are, despite any provision of the *Land Use Planning and Approvals Act 1993*, to be taken to have been made, to the relevant planning scheme, under that Act.
- (8) Amendments to the relevant planning scheme made under subsection (1) are

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not a statutory rule for the purposes of
the *Subordinate Legislation Act 1992*.

**39K. Contents of amendments to relevant
planning scheme**

(1) In this section –

draft LPS means a draft LPS to which
the *Land Use Planning and*
Approvals Act 1993 applies;

LPS has the same meaning as in the
Land Use Planning and
Approvals Act 1993;

site-specific qualification has the
same meaning as in Schedule 6 to
the *Land Use Planning and*
Approvals Act 1993.

(2) Proposed amendments to the relevant
planning scheme, and amendments to the
relevant planning scheme made under
section 39J(1), may only contain –

(a) provisions, regulating the
planning of the use or
redevelopment of the site and the
use or redevelopment of the site,
that are to apply under the *Land*
Use Planning and Approvals Act
1993 and the relevant planning
scheme; and

- (b) any amendments to the relevant planning scheme required in order to give effect to the provisions referred to in paragraph (a); and
 - (c) amendments referred to in section 39J(2).
- (3) A provision that may, in accordance with subsection (2)(a), be included in proposed amendments to the relevant planning scheme, or amendments to the relevant planning scheme made under section 39J(1), may consist of a site-specific qualification.
- (4) If, in accordance with subsection (3), amendments to the relevant planning scheme made under section 39J(1) consist of a site-specific qualification –
 - (a) the site-specific qualification is –
 - (i) if it is, in accordance with this Division, part of the relevant planning scheme immediately before the day on which an LPS comes into force in relation to the site – to be taken to be a provision that, in accordance with clause 8 of Schedule 6 to the *Land Use Planning and Approvals Act 1993*,

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must be contained in an LPS, but may be amended or revoked in accordance with this Division; or

- (ii) if it becomes, in accordance with this Division, part of the relevant planning scheme after the day on which an LPS comes into force in relation to the site – to be taken to be a provision in relation to which a declaration has been given under clause 8A of that Schedule, but may be amended or revoked in accordance with this Division; and
 - (b) any other provisions, in relation to the site, of the relevant planning scheme, that consist of a site-specific qualification, are not to be taken to be provisions that, in accordance with clause 8 of that Schedule, must be contained in an LPS in relation to the site.
- (5) If the Minister has prepared proposed amendments to the relevant planning scheme under section 39H(1) –

- (a) before a direction has been issued under section 35B(4) of the *Land Use Planning and Approvals Act 1993* in relation to a draft LPS that relates to the site – a direction may not be issued under that section of that Act in relation to a draft LPS that relates to the site; or
 - (b) after a direction has been issued under section 35B(4) of the *Land Use Planning and Approvals Act 1993* in relation to a draft LPS that relates to the site but before an LPS comes into force in relation to the site and amendments – the draft LPS is to be taken for the purposes of that Act not to relate to the site.
- (6) Amendments to the relevant planning scheme made under section 39J(1) –
 - (a) must further the requirements of the objectives set out in Schedule 1 to the *Land Use Planning and Approvals Act 1993*; and
 - (b) must be consistent with any applicable State Policy within the meaning of the *State Policies and Projects Act 1993*; and
 - (c) must be, as far as practicable, consistent with the Southern

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Regional Land Use Strategy
made under the *Land Use
Planning and Approvals Act
1993*; and

- (d) if the relevant planning scheme is the *Sullivans Cove Planning Scheme 1997* –
 - (i) must be consistent with the *Sullivans Cove Strategic Framework* under Part B of that planning scheme; and
 - (ii) must not amend any listings under Schedule 1 – Conservation of Cultural Heritage Values, of that planning scheme.

39L. Minor amendment of relevant planning amendments

- (1) The Minister may prepare a minor amendment to the relevant planning scheme and, by instrument in writing, approve the making of the minor amendment to the relevant planning scheme.
- (2) An amendment is only to be taken to be a minor amendment under subsection (1) if the amendment –

- (a) is to correct –
 - (i) a clerical mistake, or an accidental omission, in amendments to the relevant planning scheme made under section 39J(1); or
 - (ii) an evident material miscalculation of figures or an evident material mistake in the description of any person, thing or property referred to in amendments to the relevant planning scheme made under section 39J(1); and
 - (b) will not cause an increase in detriment to any person; and
 - (c) does not change the use or development that may, or may not, be carried out under the amendments to the relevant planning scheme made under section 39J(1).
- (3) The Minister may only approve under subsection (1) the making of a minor amendment –
- (a) where the approval relates to a minor amendment of amendments to the relevant

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planning scheme, made under section 39J(1), that apply to the area of land that is within the site on the day on which section 39G commences – if the approval is given within 12 months after those amendments came into effect; or

- (b) where the approval relates to a minor amendment of amendments to the relevant planning scheme, made under section 39J(1), that apply to an area of land that is within the site but was not within the site on the day on which section 39G commences – if the approval is given within 12 months after those amendments came into effect.
- (4) A minor amendment referred to in subsection (1) may only consist of any one or more of the following:
- (a) an amendment to the amendments to the relevant planning scheme made under section 39J(1);
 - (b) the revocation of one or more of the amendments to the relevant planning scheme made under section 39J(1);

- (c) the amendment or revocation of the provisions of the planning scheme necessary to give effect to the amendment to, or revocation of, the amendments to the relevant planning scheme made under section 39J(1).
- (5) The Minister must consult with the Planning Minister in preparing a minor amendment under subsection (1).
- (6) Section 39I(3) and section 39J apply in relation to a minor amendment to which an approval under subsection (1) relates as if –
 - (a) a reference in either of those sections to the proposed amendments to the relevant planning scheme were a reference to the minor amendment; and
 - (b) a reference in either of those sections to amendments to the relevant planning scheme were a reference to the minor amendment.
- (7) An approval of a minor amendment under subsection (1), or a minor amendment made in accordance with this section, is not a statutory rule for the purposes of the *Subordinate Legislation Act 1992*.

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39M. Significant amendments to relevant planning amendments

- (1) The Minister may prepare an amendment to the relevant planning scheme and, by instrument in writing, approve the making of the amendment to the relevant planning scheme.
- (2) An approval under subsection (1) of the making of an amendment may only be made –
 - (a) where the approval relates to an amendment of amendments to the relevant planning scheme, made under section 39J(1), that apply to the area of land that is within the site on the day on which section 39G commences – if the approval is given within 12 months after those amendments came into effect; or
 - (b) where the approval relates to an amendment of amendments to the relevant planning scheme, made under section 39J(1), that apply to an area of land that is within the site but was not within the site on the day on which section 39G commences – if the approval is given within 12 months after those amendments came into effect.

- (3) An amendment referred to in subsection (1) may only consist of any one or more of the following:
 - (a) an amendment to the amendments to the relevant planning scheme made under section 39J(1);
 - (b) the revocation of one or more of the amendments to the relevant planning scheme made under section 39J(1);
 - (c) the amendment or revocation of the provisions of the planning scheme necessary to give effect to the amendment to, or revocation of, the amendments.
- (4) The Minister must consult with the Planning Minister in preparing an amendment under subsection (1).
- (5) If an approval is given under subsection (1) in relation to an amendment under subsection (1) –
 - (a) a reference in section 39G(3) or (4) to a request is to be taken to be a reference to the approval under subsection (1); and
 - (b) a reference in section 39G(4), section 39H(2), (3), (4) or (5), section 39I or section 39J to proposed amendments to the relevant planning scheme is to be

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taken to be a reference to the amendment under subsection (1); and

- (c) a reference in section 39J or section 39K(6) to amendments to the relevant planning scheme is to be taken to be a reference to the amendment under subsection (1).

- (6) An approval under subsection (1) is not a statutory rule for the purposes of the *Subordinate Legislation Act 1992*.

39N. Amendment under *Land Use Planning and Approvals Act 1993* of relevant planning amendments

- (1) Nothing in this Division is to be taken to permit the amendment under this Act of a provision of a planning scheme that is one of the State Planning Provisions, within the meaning of the *Land Use Planning and Approvals Act 1993*.
- (2) An amendment under the *Land Use Planning and Approvals Act 1993* to provisions amended or inserted by the amendments to the relevant planning scheme made after consultation with the Planning Minister, as amended, if at all, under this Division, may only be made with the approval of the Minister.

- (3) Subsection (2) ceases to apply in respect of amendments in relation to an area of land at the end of the period of 2 years after proposed amendments to the planning scheme in relation to the area of land are approved under section 39I(1).

17. Section 53 amended (Transfer of Crown land)

Section 53(1) of the Principal Act is amended by inserting “all or any part of” after “including”.

18. Section 53A inserted

After section 53 of the Principal Act, the following section is inserted in Part 7:

53A. Transfer to Crown of land or interests of Corporation

- (1) The Minister, by notice published in the *Gazette*, may, with the approval of the Treasurer and the Minister to whom the administration of the *Crown Lands Act 1976* is assigned, transfer, from the Corporation to the Crown, land of the Corporation that is specified in the notice.
- (2) The Minister, by notice published in the *Gazette*, may, with the approval of the Treasurer and the Minister to whom the administration of the *Crown Lands Act 1976* is assigned, transfer to the Crown an interest, in land of the Corporation,

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specified in the notice, if the interest was an interest transferred to the Corporation from the Crown.

- (3) A notice under subsection (1) or (2) –
 - (a) takes effect on the day on which it is published in the *Gazette* or a later day specified in the notice; and
 - (b) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.
- (4) On the day on which a notice under subsection (1) takes effect, the land of the Corporation specified in the notice –
 - (a) ceases to be land vested in the Corporation; and
 - (b) vests in the Crown –
 - (i) subject only to those estates in the land specified in the notice; or
 - (ii) if the notice does not specify that the land vests subject to an estate, free from all encumbrances.
- (5) On the day on which a notice under subsection (2) takes effect, the interest of the Corporation specified in the notice –

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- (a) ceases to be an interest of the Corporation; and
- (b) vests in the Crown.

19. Section 57 repealed

Section 57 of the Principal Act is repealed.

20. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.