

# **Urban Land Development Authority Bill 2007**

## **Explanatory notes for Amendments to be moved during consideration in detail**

### **Notes on Provisions**

#### **Application to change UDA development approval**

Clause 1 of this amendment amends clause 75 of the bill by omitting the words ‘having an interest in the relevant land for a UDA development approval’.

The purpose of this amendment is to bring the provision into line with the *Integrated Planning Act 1997*, section 3.5.24 in relation to the issue of owner’s consent.

#### **Application to change UDA development approval**

Clause 2 of this amendment amends clause 75 of the bill by omitting the words ‘the approval’ and replacing them with the words ‘a UDA development approval’.

The purpose of this amendment is to bring the provision into line with the *Integrated Planning Act 1997*, section 3.5.24 in relation to the issue of owner’s consent.

#### **Application to change UDA development approval**

Clause 3 of this amendment amends clause 75 of the bill by inserting a new subsection (5) that provides ‘If the person is not the owner of the relevant land for the UDA development approval, the amendment application must be accompanied by the owner’s consent.’.

The purpose of this amendment is to bring the provision into line with the *Integrated Planning Act 1997*, section 3.5.24 in relation to the issue of owner's consent.

### **Amendments to Body Corporate and Community Management Act 1997**

Clause 4 of this amendment inserts a new Part 7A Amendment of Body Corporate and Community Management Act 1997 as follows.

#### **Act amended in pt 7A**

Clause 146A provides that part 7A amends the *Body Corporate and Community Management Act 1997*.

#### **Amendment of s 29 (Notice about change of scheme being developed progressively)**

Clause 146B amends section 29(3) to omit a reference to the Planning Act.

The definition of "Planning Act" that previously referred to the *Integrated Planning Act 1997* has been omitted from Schedule 6 (Dictionary). The reference to development approval in Schedule 6 (Dictionary) has been amended to include a reference to both the *Integrated Planning Act 1997* and the *Urban Land Development Authority Act 2007*.

#### **Amendment of s 57 (Other matters about new statements for schemes developed progressively)**

Clause 146C amends section 57 by including a reference to the Urban Land Development Authority (the Authority).

The purpose of this amendment is to provide for situations where the Authority and not a local government makes an endorsement under section 60.

#### **Replacement of s 60 (Community management statement notation)**

Clause 146D omits the existing section 60 and replaces it with a new provision.

The purpose of the amendment is to provide that the Authority and not the relevant local government will endorse community management statements for community titles scheme within urban development areas.

The provision puts the Authority in the same position as local government when considering whether it is appropriate to endorse a community management statement.

New sections 60(1)-(7) replace references to:

- ‘local government’ with references to ‘relevant planning body’; and
- ‘planning scheme’ with references to ‘planning instrument’.

New section 60(7) provides that where a relevant planning body does not endorse a community management statement there is a right of appeal to Planning and Environment Court.

This provision places the Authority in the same position as local government in relation to endorsing community management schemes. This is considered appropriate as the endorsement of a scheme is a decision that is made after planning issues have been determined and is essentially an operational step.

New section 60(8) specifies those parts of the *Integrated Planning Act 1997* that will apply to appeals under new section 60(7).

This provision has been introduced to remove any doubt regarding the application of the *Integrated Planning Act 1997* to appeals lodged under this section.

New section 60(9) provides definitions for ‘planning instrument’ and ‘relevant planning body’.

### **Amendment of s 61 (Giving copy of community management statement to local government)**

Clause 146E amends section 61 by:

- changing the heading to omit the reference to local government;
- including a new section 61(1)(c) that provides that the provision applies when the Authority endorses a community management statement under section 60; and
- Replacing the existing section 61(2) to provide that the body corporate must provide a copy of the community management statement to both the local government and the Authority, (where the Authority did not endorse the statement under section 60).

The purpose of these amendments is to ensure that where a community management statement is not endorsed under section 60 prior to registration the body corporate must provide a copy of the community management statement to both the Authority and the relevant local government when the community titles scheme is located wholly or partially within an urban development area.

### **Amendment of s 78 (Termination of schemes)**

Clause 146F inserts a new section 78(6)(c).

The purpose of this provision is to ensure that where a community titles scheme is terminated and the scheme land is wholly or partially located within an urban development area the court may take the views of the Authority, in addition to the views of the relevant local government, into account.

### **Amendment of s 80 (Effect of termination on accrued charge, levy, rate or tax)**

Clause 146G amends section 80(1)(b) to include a reference to the *Urban Land Development Authority Act 2007*.

The purpose of this amendment is to place the Authority in the same position as a local government for an accrued charge, levy, rate or tax.

### **Amendment of s 180 (Limitations for by-laws)**

Clause 146H amends section 180(2) to include a reference to UDA by-laws.

The purpose of this clause is to allow a body corporate to override a by-law made by the Authority relating to the keeping of animals. This is consistent with the position for local laws made by local government.

### **Amendment of section 196 (Utility services not separately charged for)**

Section 146I amends section 196 to apply the *Urban Land Development Authority Act 2007*, section 127(2) to (5) to the unpaid amounts charged for utility services as if the charge were a special rate or charge under that Act that is payable proportionately by each lot owner according to the contribution schedule lot entitlement for the lot.

The purpose of this amendment is to put the Authority in the same position as local government.

### **Amendment of s 197 (Registering charge on land under this Act)**

Section 146J amends section 197(1) and (2) by replacing references to ‘section 196(9)(b)’ with references to ‘section 196(10)(b)’.

This amendment is required as a result of a change in the numbering of section 196.

### **Amendment of s 198 (Effect of scheme change on liability for charges etc.)**

Section 146K amends section 198 to include a reference to the Authority.

The purpose of this amendment is to put the Authority in the same position as local government in relation to amounts owing to the Authority when there is a change to the community titles scheme.

### **Amendment of s 313 (Representation in planning proceedings)**

Section 146L amends section 313 by replacing the reference to ‘Planning Act’ with a reference to the ‘*Integrated Planning Act 1997*’.

The purpose of this provision is to reflect the removal of the ‘Planning Act’ as a defined term from the Schedule 6 dictionary.

### **Amendment of sch 4 (By-laws)**

Section 146M amends Schedule 4, section 10(2)(a) by including a reference to UDA by laws.

The purpose of this provision is to put UDA by-laws in the same position as local government local laws in relation to garbage disposal. The provision also clarifies that where applicable a body corporate must comply with both the UDA by-laws and the local government local laws.

### **Amendment of sch 6 (Dictionary)**

Section 146N amends Schedule 6, definitions by omitting references to *Planning Act* and *planning scheme*. It also:

- *amends the definition of development approval to incorporate references to the Urban Land Development Authority Act 2007; and*

- *includes definitions for UDA by-law, urban development area, and urban land development authority.*

**Clause 154 (Replacement of ch 2, pt 5A)—**

Clause 5 of this amendment amends clause 154 of the bill by omitting are reference to “section 5.3.8’ and replacing it with a reference to ‘section 5.2.3’.

The purpose of this amendment is to correct a referencing error.

**Clause 200 (Amendment of s 5.2.3 (Matters certain infrastructure agreements must contain)—**

Clause 6 of this amendment amends clause 200 of the bill by removing a repeated word.