

Urban Land Development Authority Bill 2007

Amendments agreed to during Consideration

1 Clause 75 (Application to change UDA development approval)—

At page 51, lines 4 and 5, ‘having an interest in the relevant land for a UDA development approval’—

omit.

2 Clause 75 (Application to change UDA development approval)—

At page 51, line 6, ‘the approval’—

omit, insert—

‘a UDA development approval’.

3 Clause 75 (Application to change UDA development approval)—

At page 51, after line 21—

insert—

‘(5) 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.’.

4 After clause 146—

At page 85, after line 30—

insert—

**‘Part 7A Amendment of Body Corporate
and Community Management
Act 1997**

‘146A Act amended in pt 7A

‘This part amends the *Body Corporate and Community Management Act 1997*.

‘146B Amendment of s 29 (Notice about change of scheme being developed progressively)

‘Section 29(3), ‘under the Planning Act’—
omit.

‘146C Amendment of s 57 (Other matters about new statements for schemes developed progressively)

- ‘(1) Section 57(4), ‘the development approval or’—
omit, insert—
‘a development approval or the’.
- ‘(2) Section 57(7)(b), ‘the development approval’—
omit, insert—
‘each development approval’.
- ‘(3) Section 57(7)(c), ‘has’—
omit, insert—
‘or the urban land development authority has, under section 60,’.

‘146D Replacement of s 60 (Local government community management statement notation)

‘Section 60—
omit, insert—

‘60 Community management statement notation

- ‘(1) Subject to subsection (6), a community management statement proposed to be recorded for a community titles scheme may be recorded only if each relevant planning body for the scheme has endorsed on the statement a certificate (a *community management statement notation*).

- ‘(2) In a community management statement notation a relevant planning body for a community titles scheme states only that it has noted the community management statement.
- ‘(3) Subject to subsection (4), a relevant planning body must endorse a community management statement notation on the proposed community management statement.
- ‘(4) For a community titles scheme intended to be developed progressively, a relevant planning body for the scheme is not required to endorse a community management statement notation on the proposed community management statement if there is an inconsistency between a provision of the statement and—
- (a) if the relevant planning body is a local government—a lawful requirement of, or an approval given by, the local government under the *Integrated Planning Act 1997*; or
 - (b) if the relevant planning body is the urban land development authority—a lawful requirement of, or an approval given by—
 - (i) a local government under the *Integrated Planning Act 1997*; or
 - (ii) the urban land development authority under the *Urban Land Development Authority Act 2007*; or
 - (c) the planning instrument of the relevant planning body; or
 - (d) a lawful requirement of, or an approval given by, the relevant planning body under the planning instrument of the relevant planning body.

Example for subsection (4)—

A relevant planning body that is a local government would be expected to refuse to endorse a proposed community management statement with a community management statement notation if the statement envisages development of part of the scheme land in a way prohibited under its planning instrument. However, the relevant planning body would be expected to endorse the proposed statement with a community management statement notation if the proposed community management statement acknowledges that development of the part of the land in the way proposed will proceed only if and when a suitable amendment of the planning instrument is made.

- ‘(5) For subsection (4), a provision of the statement is not inconsistent with a planning instrument only because—
- (a) the planning instrument allows a person to do an act or engage in an activity in the area in which the community titles scheme is established; and
 - (b) the provision requires the person to obtain the body corporate’s permission before doing the act or engaging in the activity on scheme land.
- ‘(6) Despite subsection (1), a new community management statement may be recorded without the endorsement on it of any community management statement notation that is otherwise required if—
- (a) there is no difference between the existing statement for the scheme and the new statement for any issue that a relevant planning body for the scheme could have regard to for identifying an inconsistency mentioned in subsection (4); or

Example for paragraph (a)—

The new statement includes an interest schedule that is different from the interest schedule included in the existing statement, but there is otherwise no difference between the 2 statements.
 - (b) any difference between the statements is limited to changes to reflect—
 - (i) a lot entitlement adjustment agreed to under section 50; or
 - (ii) a formal acquisition affecting the scheme; or
 - (iii) a change in a services location diagram for the scheme; or
 - (iv) the incorporation of a lot with common property, or conversion of lessee common property to a lot, under section 40.
- ‘(7) If a relevant planning body for the scheme does not endorse a community management statement notation within 40 days after the community management statement is submitted for endorsement under this section, or refuses to endorse the notation—

- (a) the person who submitted the community management statement for endorsement of the notation may appeal to the Planning and Environment Court under the *Integrated Planning Act 1997*; and
 - (b) the court is required to hear and decide the appeal.
- ‘(8) For an appeal under subsection (7)—
- (a) the relevant planning body is the respondent; and
 - (b) the *Integrated Planning Act 1997*, chapter 4, part 1, divisions 10 to 12 apply, with necessary changes, as if—
 - (i) the appeal were an appeal mentioned in the divisions; and
 - (ii) the relevant planning body were the only other party to the appeal; and
 - (c) the appellant must give the relevant planning body the written notice of the appeal under the divisions within 10 business days after starting the appeal.
- ‘(9) In this section—
- planning instrument***, of a relevant planning body, means—
- (a) if the body is a local government—
 - (i) its planning scheme under the *Integrated Planning Act 1997*; or
 - (ii) an instrument of the local government having effect as if it were a planning scheme of the local government; or
 - (b) if the body is the urban land development authority—an interim land use plan or development scheme under the *Urban Land Development Authority Act 2007*.
- relevant planning body***, for a community titles scheme, means—
- (a) to the extent scheme land is or is proposed to be located in an urban development area—the urban land development authority; and
 - (b) to the extent scheme land is or is proposed to be located in a local government area but not in an urban

development area—the local government for the local government area.’.

‘146E Amendment of s 61 (Giving copy of community management statement to local government)

- ‘(1) Section 61, heading, ‘to local government’—
omit.
- ‘(2) Section 61(1), ‘either’—
omit, insert—
‘any’.
- ‘(3) Section 61(1)—
insert—
‘(c) a community management statement that, under section 60, is endorsed with a community management statement notation by the urban land development authority.’.
- ‘(4) Section 61(2)—
omit, insert—
- ‘(2) The body corporate must give a copy of the statement to—
- (a) each local government in whose local government area scheme land is located; and
 - (b) if any scheme land is in an urban development area and the urban land development authority has not endorsed the statement under section 60—the authority.’.

‘146F Amendment of s 78 (Termination of schemes)

‘Section 78(6)—

insert—

- ‘(c) if any scheme land is in an urban development area, the urban land development authority.’.

‘146G Amendment of s 80 (Effect of termination on accrued charge, levy, rate or tax)

‘Section 80(1)(b), after ‘*Local Government Act 1993*’—
insert—
 ‘, the *Urban Land Development Authority Act 2007*’.

‘146H Amendment of s 180 (Limitations for by-laws)

‘Section 180(2), after ‘local law’—
insert—
 ‘or UDA by-law’.

‘146I Amendment of section 196 (Utility services not separately charged for)

- ‘(1) Section 196(7), ‘Subsections (8) and (9)’—
omit, insert—
 ‘Subsections (8), (9) and (10)’.
- ‘(2) Section 196(9) to (11)—
renumber as section 196(10), (12) and (13) respectively.
- ‘(3) Section 196—
insert—
- ‘(9) If the utility service provider is the urban land development authority, the unpaid amount becomes a special rate or charge under the *Urban Land Development Authority Act 2007* that is payable proportionately by each lot owner according to the contribution schedule lot entitlement for the lot.’.
- ‘(4) Section 196(10), as renumbered, after ‘local government’—
insert—
 ‘or the urban land development authority’.
- ‘(5) Section 196—
insert—
- ‘(11) For applying the *Urban Land Development Authority Act 2007*, section 127 for the purposes of subsection (9), the

reference in the section to the land is taken to be a reference to each lot.’

- ‘(6) Section 196(12), as renumbered, ‘Subsection (9)’—
omit, insert—
‘Subsection (10)’.

‘146J Amendment of s 197 (Registering charge on land under this Act)

‘Section 197(1) and (2), ‘section 196(9)(b)’—
omit, insert—
‘section 196(10)(b)’.

‘146K Amendment of s 198 (Effect of scheme change on liability for charges etc.)

Section 198—
insert—

- ‘(4) Also, this section does not apply to an amount owing to the urban land development authority to the extent this section is inconsistent with the *Urban Land Development Authority Act 2007*.’.

‘146L Amendment of s 313 (Representation in planning proceedings)

‘Section 313(1), ‘Planning Act’—
omit, insert—
‘Integrated Planning Act 1997’.

‘146M Amendment of sch 4 (By-laws)

‘Schedule 4, section 10(2)(a)—
omit, insert—

- ‘(a) comply with all of the following laws about the disposal of garbage—

- (i) if the lot is in an urban development area—UDA by-laws, and any local laws that apply;
- (ii) if the lot is not in an urban development area—local laws; and’.

‘146N Amendment of sch 6 (Dictionary)

‘(1) Schedule 6, definitions *development approval*, *Planning Act* and *planning scheme*—

omit.

‘(2) Schedule 6—

insert—

‘*development approval* means—

- (a) a development approval under the *Integrated Planning Act 1997*; or
- (b) a UDA development approval under the *Urban Land Development Authority Act 2007*.

UDA by-law means a by-law made by the urban land development authority.

urban development area means an urban development area under the *Urban Land Development Authority Act 2007*.

urban land development authority means the Urban Land Development Authority under the *Urban Land Development Authority Act 2007*.’.

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

At page 139, line 12, ‘section 5.3.8’—

omit, insert—

‘section 5.2.3’.

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

At page 167, line 30, ‘may’—

omit.

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