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# Update Summary

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**UPDATE 104**

**OCTOBER 2016**

## **ESTATE AGENTS' PRACTICE MANUAL NEW SOUTH WALES**

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## **Updated Commentary**

Chapter 17 “Land use planning and development control” has been reviewed and updated by Guy Dwyer. See [17.10]-[17.3100].

### **Modern planning law in New South Wales**

The establishment of the Greater Sydney Commission as a result of the enactment of the *Greater Sydney Commission Act 2015* (NSW) (Act 57, 2015 – effective 27 January 2016) is significant for the Greater Sydney Region. The Commission has been tasked with the responsibility of addressing the planning challenges associated with the growing population of the Greater Sydney Region in a systematic and strategic manner.

In May 2016, the Coalition Government announced the amalgamation of several local councils in New South Wales. When announcing the changes, Premier Mike Baird suggested that the purpose of the reforms was to build greater efficiencies into the operation of councils and to cut red tape. The Premier also indicated that cost savings generated through the amalgamation of councils would free up additional funds to be invested into local community services and infrastructure, and would reduce financial burdens imposed on ratepayers by inefficient councils.

Both the establishment of the Greater Sydney Commission and the proposed amalgamation of local councils are discussed at [17.20].

### **Decision-making in respect of planning and development in New South Wales**

The two main types of decision-makers in the context of land use planning and development control in New South Wales are the Minister of Planning and local councils. Both of these decision-makers vest delegates to make decisions in respect of planning or development proposals on their behalf. See [17.1600].

## **Amended Legislation**

### **Property, Stock and Business Agents Act 2002**

The *Property, Stock and Business Agents Act 2002* has been amended by the *Statute Law (Miscellaneous Provisions) Act 2016* (Act 27, 2016). The amending Act received assent on 7 June 2016 (Sch 2.35 effective 8 July 2016).

The proposed amendments update terminology and references as a consequence of the *Government Sector Employment Act 2013* and past administrative changes orders.

## **Property, Stock and Business Agents Regulation 2014**

The *Property, Stock and Business Agents Regulation 2014* has been amended by the following Act and regulations:

- *Property, Stock and Business Agents Amendment (Fees and Contributions) Regulation 2016* (Reg 239, 2016) – effective 1 July 2016. The object of this Regulation is to increase certain fees and Compensation Fund contributions payable under the *Property, Stock and Business Agents Act 2002*. The fee and contribution increases are generally in line with movements in the Consumer Price Index (rounded to the nearest dollar).
- *Statute Law (Miscellaneous Provisions) Act 2016* (Act 27, 2016). The amending Act received assent on 7 June 2016 (Sch 2.36 effective 8 July 2015). The proposed amendments update terminology and references as a consequence of the *Government Sector Employment Act 2013* and past administrative changes orders.
- *Property, Stock and Business Agents Amendment (Property Reports and Exemption) Regulation 2016* (Reg 463, 2016) – effective 15 August 2016. The object of this Regulation is to amend the *Property, Stock and Business Agents Regulation 2014*:
  - (a) to require a real estate agent for the sale of a residential property:
    - (i) to record reports of certain inspections and financial certificates, and
    - (ii) to disclose those records to a person requesting a copy of the contract for the sale of the property, and
  - (b) to exempt a real estate agent from the operation of the *Property, Stock and Business Agents Act 2002* when carrying out certain activities, and
  - (c) to reinstate a provision that requires an agency agreement for the sale of a residential property to specify the price at

which the property is to be offered, and (d) to effect law revision.

## **Landlord and Tenant Regulation 2015**

The *Landlord and Tenant Regulation 2015* has been amended by the *Landlord and Tenant Amendment (Fees) Regulation 2016* (Reg 236, 2016) – effective 1 July 2016.

The object of this Regulation is to increase the fees payable in connection with the administration of the *Landlord and Tenant (Amendment) Act 1948*. The fee increases are generally in line with movements in the Consumer Price Index (rounded to the nearest dollar).

## **Residential Tenancies Act 2010**

The *Residential Tenancies Act 2010* has been amended by the *Statute Law (Miscellaneous Provisions) Act 2016* (Act 27, 2016). The amending Act received assent on 7 June 2016 (Sch 2.40 effective 8 July 2015).

The proposed amendments update terminology and references as a consequence of the *Government Sector Employment Act 2013* and past administrative changes orders).

## **Residential Tenancies Regulation 2010**

The *Residential Tenancies Regulation 2010* has been amended by the following Act and regulation:

- *Residential Tenancies Amendment (Loose-fill Asbestos Insulation) Regulation 2016* (Reg 267, 2016) – effective 30 May 2016 (Sch 1 [3] and [4] excepted, set to commence on 30 October 2016).  
The object of this Regulation is to amend the *Residential Tenancies Regulation 2010* as follows:
  - (a) to prescribe, as a material fact that must not be knowingly concealed by a landlord or landlord's agent to induce a tenant to enter into a residential tenancy agreement, the fact that residential premises to which the agreement applies are listed on the register (the *LFAI Register*) under Division 1A of Part 8 of the *Home Building Act 1989* of residential premises that contain or have contained loose-fill asbestos insulation,
  - (b) to require landlords, as a term of the standard form of residential tenancy agreement, to advise tenants if premises are listed on the LFAI Register.

- *Statute Law (Miscellaneous Provisions) Act 2016* (Act 27, 2016). The amending Act received assent on 7 June 2016 (Sch 2.41 effective 8 July 2015).  
The proposed amendment updates terminology as a consequence of the *Government Sector Employment Act 2013*.

## **Conveyancing (Sale of Land) Regulation 2010**

The *Conveyancing (Sale of Land) Regulation 2010* has been amended by the following Act:

- *Taxation Administration Amendment (Collection and Disclosure of Information to Commonwealth) Act 2016* (Act 29, 2016). The amending Act received assent on 28 June 2016 (effective 1 July 2016).  
The Act inserts a new cl 8A – Implied term of contract for all contracts on or after 1 July 2016 as well as new cll 4 – Land tax certificate–contracts completing in 14 days or less and 5 – Land tax certificate–contracts completing in more than 14 days and contracts where no completion date agreed into Sch 2 Prescribed terms.

