



Western Australia

# **Metropolitan Redevelopment Authority Act 2011**

Compare between:

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Western Australia

## **Metropolitan Redevelopment Authority Act 2011**

**An Act to —**

- **provide for the planning and redevelopment of, and the control of development in, certain land in the metropolitan region; and**
- **establish a State agency with planning, development control, land acquisition and disposal and other functions in respect of that land; and**
- **provide for related matters, including the repeal or amendment of certain Acts.**

## **Part 1 — Preliminary**

### **1. Short title**

This is the *Metropolitan Redevelopment Authority Act 2011*.

### **2. Commencement**

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

### **3. Terms used**

In this Act, unless the contrary intention appears —

***acquire*** includes take —

- (a) by way of lease, licence or easement; or
- (b) in any other manner in which an interest in property may be acquired;

***approved redevelopment scheme*** means a redevelopment scheme, as amended from time to time under section 49, in operation under section 48(2);

***Authority*** means the Metropolitan Redevelopment Authority established by section 4;

***chief executive officer*** means the chief executive officer, under the *Public Sector Management Act 1994*, of the Authority;

***development*** means —

- (a) the erection, construction, demolition, alteration or carrying out of any building, excavation, or other works in, on, over, or under land; and
- (b) a material change in the use of land; and

- (c) any other act or activity in relation to land declared by regulation to constitute development,

but does not include any work, act or activity declared by regulation not to constitute development;

**development application** means an application for a development approval or for an approval under section 60(2);

**development approval** means a development approval issued by the Authority under section 66(2)(b);

**dispose of** includes —

- (a) sell; or
- (b) dispose of —
- (i) by way of lease, licence, easement or right of way; or
  - (ii) in any other way in which an interest in property may be disposed of;

**Environment Minister** means the Minister who administers the EP Act;

**EPA** means the Environmental Protection Authority continued in existence under the EP Act;

**EP Act** means the *Environmental Protection Act 1986*;

**improvement scheme** has the meaning given in the PAD Act section 4(1);

**local planning scheme** has the meaning given in the PAD Act section 4(1);

**LRC** means a land redevelopment committee established under section 26;

**metropolitan region** has the meaning given in the PAD Act section 4(1);

**PAD Act** means the *Planning and Development Act 2005*;

**Planning Minister** means the Minister who administers the PAD Act;

**planning scheme** means any of the following —

- (a) a local planning scheme;
- (b) a region planning scheme as defined in the PAD Act section 4(1);
- (c) an improvement scheme;

**public authority** means any of the following —

- (a) a Minister of the State;
- (b) a department of the Public Service, a State instrumentality or a State public utility;
- (c) any other person or body, whether corporate or not, who or which, under the authority of a written law, administers or carries on for the benefit of the State a social service or public utility;

**redevelopment area** means any land declared to be a redevelopment area by regulations made under Part 4;

**scheme start day**, for land declared to be a redevelopment area, means —

- (a) the day on which an approved redevelopment scheme that applies to the land comes into operation under section 48(2); or
- (b) if the land is added to a redevelopment area, the day on which an approved redevelopment scheme applies to that land;

**staff member** means the chief executive officer or a person appointed, employed or engaged as referred to in section 110;

**Swan Valley** has the meaning given in the *Swan Valley Planning Act 2020* section 3;

**thoroughfare** has the meaning given in the *Local Government Act 1995* section 1.4;

**WAPC** means the Western Australian Planning Commission established under the PAD Act section 7.

*[Section 3 amended: No. 45 of 2020 s. 117.]*

## **Part 2 — Metropolitan Redevelopment Authority**

### **Division 1 — Metropolitan Redevelopment Authority**

#### **4. Authority established**

- (1) A body called the Metropolitan Redevelopment Authority is established.
- (2) The Authority is a body corporate with perpetual succession.
- (3) Proceedings may be taken by or against the Authority in its corporate name.

#### **5. Status**

The Authority is an agent of the State and, except as provided in section 17, has the status, immunities and privileges of the State.

#### **6. Authority to be SES organisation**

The Authority is to be an SES organisation under the *Public Sector Management Act 1994*.

### **Division 2 — Functions of Authority**

#### **Subdivision 1 — General**

#### **7. Functions in redevelopment areas**

- (1) The functions of the Authority are —
  - (a) to plan, undertake, promote and coordinate the development of land in redevelopment areas in the metropolitan region; and
  - (b) for that purpose —
    - (i) to prepare and keep under review strategic and policy documents in relation to the development of land in redevelopment areas; and

- (ii) under Part 5, to prepare and keep under review a redevelopment scheme for each redevelopment area; and
  - (iii) under Part 6, to control development in each redevelopment area.
- (2) In performing its functions under this Act in relation to a redevelopment area the Authority must have regard to, and seek to implement, the objectives prescribed under section 30(5)(c) in relation to the area.
- (3) The regulations may impose requirements and restrictions on, and otherwise regulate, the performance by the Authority of its functions in a redevelopment area, and the Authority must comply with those regulations.

**8. Functions in areas contiguous to redevelopment areas**

- (1) It is a function of the Authority, if the Governor by order published in the *Gazette* so determines, to provide services to a public authority in relation to the redevelopment of land in an area that is contiguous to a redevelopment area.
- (2) An order under subsection (1) must specify —
  - (a) the public authority to which services are to be provided; and
  - (b) the area to which the order applies.
- (3) The provision of services under subsection (1) must be the subject of a written agreement made between the Authority and the relevant public authority and approved in writing by the Minister.
- (4) Without limiting the terms of an agreement under subsection (3), the agreement may —
  - (a) specify the nature of the services to be provided to the public authority; and



- (b) provide for the remuneration of the Authority for the provision of those services.
- (5) The Authority cannot exercise its powers under section 18(1)(a) in the performance of a function under subsection (1), and section 22 does not apply to, or in relation to, the performance by the Authority of a function under subsection (1).
- (6) The Governor may by subsequent order published in the *Gazette* amend or revoke an order under subsection (1).
- (7) The *Interpretation Act 1984* section 42 applies to an order under this section as if the order were a regulation.

**9. Delegated functions**

The Authority may exercise or perform any functions under the PAD Act that are delegated to it under section 16 of that Act, despite those functions being exercised or performed outside of a redevelopment area.

**10. Business and operational plans to be followed**

The Authority must perform its functions in accordance with its business plan and its operational plan approved under section 113(7)(a).

**11. General powers**

- (1) In this section —
  - business arrangement* means a proprietary limited company, partnership, trust, joint venture or arrangement for sharing profits;
  - participate* includes form, promote, establish, enter into, manage, dissolve, wind-up and do anything incidental to the doing of those things.
- (2) The Authority may do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

- (3) Without limiting subsection (2), the Authority may —
- (a) subject to Subdivision 2, acquire, develop, dispose of, and otherwise deal with, property; and
  - (b) subject to section 12, participate in any business arrangement and acquire, hold and dispose of shares, units or other interests in, or relating to, a business arrangement; and
  - (c) sell advertising opportunities and enter into arrangements for sponsorship; and
  - (d) develop and turn to account any technology, software, resource or intellectual property and, for that purpose, apply for, hold, receive, exploit and dispose of any intellectual property; and
  - (e) use its expertise and resources to provide consultancy, advisory or other services for profit.
- (4) In performing its functions the Authority may act alone or in conjunction with any person or any public authority or any department, agency or instrumentality of the Commonwealth.

**12. Minister and Treasurer to consider proposals under section 11(3)(b)**

- (1) In this section —
- transaction** means the exercise of any power conferred by section 11(3)(b) in relation to a business arrangement.
- (2) The Authority must obtain the written agreement of the Minister before it enters into any transaction.
- (3) Subject to subsection (4), the Minister must obtain the Treasurer's approval before giving a written agreement under subsection (2).
- (4) The Treasurer may, by notice published in the *Gazette*, exempt any transaction or class of transaction from the operation of subsection (3) either unconditionally or on specified conditions.

- (5) A notice under subsection (4) may be revoked or amended by the Treasurer.

**13. Delegation except of powers and duties under Parts 5 and 6**

- (1) The Authority may delegate under this section to a person any power or duty of the Authority except —
- (a) this power of delegation; and
  - (b) a power or duty under Part 5 or 6 in respect of a redevelopment area.
- (2) If a person is not an LRC, a committee established under section 112, a member of the Authority's board of management or a staff member, a power or duty can only be delegated to the person under this section if the person has been approved for the purposes of this section by the Minister.
- (3) An approval under subsection (2) may be given in respect of —
- (a) a specified public sector employee or public sector employees of a specified class; or
  - (b) the holder or holders for the time being of a specified office or class of office in a public sector agency.
- (4) In subsection (3) —
- public sector agency** means —
- (a) an agency as defined in the *Public Sector Management Act 1994* section 3(1); or
  - (b) a non-SES organisation as defined in the *Public Sector Management Act 1994* section 3(1);
- public sector employee** means a person employed in a public sector agency.
- (5) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.

**14. Delegation of powers and duties under Parts 5 and 6**

- (1) Subject to the regulations referred to in subsection (3)(b), the Authority may delegate under this section any power or duty of the Authority under Part 5 or 6 in respect of a redevelopment area to —
  - (a) an LRC established for the redevelopment area; or
  - (b) a committee established under section 112; or
  - (c) a person specified in regulations as a person to whom the power or duty can be delegated under this section.
- (2) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (3) Regulations may —
  - (a) prescribe any of the following —
    - (i) a specified public sector employee or public sector employees of a specified class;
    - (ii) the holder or holders for the time being of a specified office or class of office in a public sector agency,  
as persons to whom powers or duties can be delegated by the Authority under subsection (1)(c);
  - (b) provide for powers and duties that cannot be delegated under this section;
  - (c) provide for the exercise and performance of powers and duties delegated under this section.
- (4) In subsection (3)(a) —

**public sector agency** means —

  - (a) an agency as defined in the *Public Sector Management Act 1994* section 3(1); or
  - (b) a non-SES organisation as defined in the *Public Sector Management Act 1994* section 3(1);

*public sector employee* means a person employed in a public sector agency.

**15. Subdelegation of delegated WAPC powers**

- (1) The PAD Act section 16(7A) authorises the Authority to subdelegate to an LRC the exercise or performance of any function delegated under section 16(1) of that Act to the Authority.
- (2) A subdelegation referred to in subsection (1) takes effect when notice of the subdelegation is published in the *Gazette* under the PAD Act section 16(7B).
- (3) An LRC may exercise or perform any functions under the PAD Act that are subdelegated to it under section 16(7A) of that Act, despite those functions being exercised or performed outside of the redevelopment area for which the LRC is established.

**16. General provisions about delegations**

- (1) A delegation under section 13 or 14 must be in writing executed by the Authority.
- (2) A person exercising or performing a power or duty that has been delegated to the person under section 13 or 14 is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (3) A delegated power or duty that is properly exercised or performed by the person to whom it is delegated under section 13 or 14 is taken to have been exercised or performed by the Authority.
- (4) Nothing in section 13 or 14 limits the ability of the Authority to perform a function through a staff member or an agent.
- (5) Sections 13 and 14 do not apply to the execution of documents but authority to execute documents on behalf of the Authority can be given under section 125.

**17. Authority to comply with written laws**

This Act must not be read as conferring on the Authority in the performance of its functions any immunity from the operation of any written law.

**Subdivision 2 — Powers in relation to land**

**18. General powers as to land**

- (1) Subject to section 8(5) and regulations made under section 7(3), the Authority, for the purposes of performing its functions, may do any of the following in respect of land —
  - (a) acquire, hold, manage and dispose of land;
  - (b) alter, develop and improve land;
  - (c) subject to section 20, amalgamate and subdivide land.
- (2) If the value of land to be acquired or disposed of by the Authority under subsection (1)(a) in the opinion of the Authority exceeds the amount prescribed by the regulations, the Authority must not acquire or dispose of the land except with, and in accordance with the terms of, the Minister's prior written agreement.

**19. Powers in relation to land contiguous to redevelopment area**

- (1) The Authority may exercise its powers under section 18 in relation to a lot that is, in part, within a redevelopment area as if the whole of the lot were in the redevelopment area, but sections 21 and 22 do not apply to, or in relation to, any part of the lot that is outside of the redevelopment area.
- (2) In subsection (1) —  
*lot* has the meaning given in the PAD Act section 4(1).
- (3) Without limiting section 11(2), the Authority may pay for the carrying out of any work on land that is contiguous with a redevelopment area if the work is, in the opinion of the

Authority, directly related to the improvement of the redevelopment area or the functions of the Authority.

**20. Subdivision and amalgamation, modification of PAD Act**

(1) In this section —

*Minister* means the Planning Minister.

(2) For the purposes of the exercise of the Authority's powers under section 18, the PAD Act sections 135 and 136, are to be read as if any reference in those provisions to the WAPC were a reference to the Minister and —

(a) subject to this section, any function of the WAPC under the PAD Act in respect of an application made or approval given under either of those sections is to be read as a function of the Minister; and

(b) if, by virtue of this section, the Minister grants an approval under either of those sections, the approval is to be taken to be an approval of the WAPC, in particular in the PAD Act section 147.

(3) To apply for the approval of the Minister, by virtue of subsection (2), under the PAD Act section 135 or 136, the Authority must —

(a) make a written application to the Minister which —

(i) must include all relevant information to enable a decision to be made; and

(ii) may include a recommendation as to the decision to be made;

and

(b) forward a copy of the application to the WAPC.

(4) Before the Minister, by virtue of subsection (2), makes a decision under the PAD Act section 135 or 136, the Minister must request the advice of the WAPC and have regard to any advice provided.

- (5) The WAPC must provide advice to the Minister within 30 days after it receives a request made under subsection (4).
- (6) Regulations made under the PAD Act in respect of the procedure for applying for approval under the PAD Act section 135 or 136 do not apply in respect of an application made to the Minister.

**21. Application of *Public Works Act 1902* to Authority**

For the purposes of the *Public Works Act 1902* —

- (a) the Authority is a local authority; and
- (b) the preparation of, and any incidental work to preparing, a redevelopment scheme under Part 5 is a public work; and
- (c) development of land under, and the carrying out of, this Act and any incidental work is a public work.

**22. Compulsorily acquiring land under *Land Administration Act 1997***

- (1) For the purposes of the *Land Administration Act 1997* Parts 9 and 10, development of land under, and the carrying out of, this Act and any incidental work is a public work.
- (2) The Minister may, by notice published in the *Gazette*, authorise the taking of specified interests in specified land in a redevelopment area.
- (3) In subsection (2) —  
*specified* means specified in the notice.
- (4) For the purposes of the *Land Administration Act 1997* section 177, a notice published under subsection (2) has effect as if it were a notice of intention registered under section 170 of that Act.



- (5) In applying the *Land Administration Act 1997* Parts 9 and 10 and for the purposes of this section —
- (a) the *Land Administration Act 1997* sections 170, 171, 172, 173, 174, 175 and 184 do not apply; and
  - (b) the *Land Administration Act 1997* sections 187, 188, 189, 190 and 191 do not apply to land within a redevelopment area that was taken or acquired under the *Public Works Act 1902* or the *Land Administration Act 1997* before the land came within a redevelopment area; and
  - (c) the *Land Administration Act 1997* otherwise applies.
- (6) If land referred to in subsection (5)(b) is not required for the public work for which it was taken or acquired, the land may be held or used for some other purpose authorised by this Act.

**23. Public authority can be directed to transfer land to Authority**

- (1) In this section —  
*interest* in land includes an easement, right or power affecting land.
- (2) If a public authority has an estate or interest in land over which it has a power of disposition and the land is in a redevelopment area, the Governor, by order, may direct the public authority to transfer all or a part of the estate or interest to the Authority.
- (3) The Governor cannot exercise the power in subsection (2) unless satisfied that the land is needed by the Authority for the purposes of this Act.
- (4) An order under subsection (2) must specify the estate or interest to be transferred and the terms on which the transfer must be made.
- (5) A public authority must comply with a direction given to it under subsection (2), despite any other written law.

**24. Closing thoroughfares, temporarily or permanently**

- (1) If the Authority considers it is necessary for the performance of its functions to temporarily close a thoroughfare in a redevelopment area to vehicles or people, wholly or partially, then despite the *Local Government Act 1995*, it may do so in such manner and for such period as it decides.
- (2) A thoroughfare must not be closed under subsection (1) for more than 3 consecutive days unless the Authority has given the chief executive officer of the local government of the district in which the thoroughfare is wholly or partially situated notice of the closure at least 14 days before the day on which the thoroughfare is first closed.
- (3) For the purposes of permanently closing a thoroughfare in a redevelopment area, the *Land Administration Act 1997* section 58, and regulations made under that Act, apply as if each reference in them to a local government —
  - (a) included a reference to the Authority; and
  - (b) did not include a reference to the local government of the district in which the thoroughfare is wholly or partially situated.

**25. Conditional disposal of land**

- (1) In this section —

**prescribed fee** means a fee prescribed under the *Transfer of Land Act 1893* or the *Registration of Deeds Act 1856*;

**Registrar** means the Registrar of Titles or the Registrar of Deeds and Transfers, as the case requires;

**transferee** means a person to whom the Authority disposes of land under section 18(1)(a).

- (2) Any agreement between the Authority and a transferee in respect of the transfer of land may do any or all of the following —
  - (a) require the transferee to make improvements to the land as specified in the agreement;
  - (b) restrict the transferee's ability to dispose of or deal with the land;
  - (c) include any other condition or restriction;
  - (d) give the Authority rights and remedies against, and the power to impose sanctions on, the transferee in relation to a breach of any such condition or restriction.
- (3) The Authority may lodge a memorial, in a form approved by the Registrar, with the Registrar as to a condition or restriction in such an agreement.
- (4) On lodgment of such a memorial and after receiving any prescribed fee, the Registrar must register the memorial against the land concerned.
- (5) While a memorial is registered under subsection (4) against land, the Registrar must not, without the written consent of the Authority, register under the *Transfer of Land Act 1893* or the *Registration of Deeds Act 1856* any instrument affecting the land.
- (6) As soon as practicable after land against which a memorial is registered under subsection (4) ceases to be subject to the condition or restriction to which a memorial relates, the Authority must withdraw the memorial by lodging with the Registrar a withdrawal in a form approved by the Registrar.
- (7) On lodgment of the withdrawal and after receiving any prescribed fee, the Registrar must cancel the memorial.

## **Part 3 — Land Redevelopment Committees**

### **26. LRC to be established for each redevelopment area**

- (1) Subject to subsection (3), the Authority must establish and name a land redevelopment committee in respect of each redevelopment area.
- (2) The Authority must comply with subsection (1) not later than 28 days after the date on which regulations establishing the redevelopment area come into operation.
- (3) The Authority is not required to establish an LRC in respect of a redevelopment area if the Authority determines that an LRC that is already established is to be taken to be established as the LRC in respect of that area.
- (4) The Authority must publish in the *Gazette* notice of the following —
  - (a) the establishment of any LRC under subsection (1);
  - (b) any determination under subsection (3).

### **27. Function of LRC**

The function of an LRC is to exercise or perform any powers or duties delegated to it under section 13 or 14 or subdelegated to it under the PAD Act section 16(7A).

### **28. Dissolution of LRC**

- (1) An LRC —
  - (a) must be dissolved by the Authority at the direction of the Minister; and
  - (b) may be dissolved by the Authority on its own initiative, with the approval of the Minister.
- (2) Regulations may prescribe all matters that are required, necessary or convenient to be prescribed in relation to anything to be done, or that occurs, because of the dissolution of an LRC.

## **Part 4 — Redevelopment areas**

### **29. Recommendation of Minister to declare a redevelopment area**

- (1) The Governor must not make regulations under section 30 or 31 that declare land to be, or that add land to, a redevelopment area except on the recommendation of the Minister.
- (2) Before making such a recommendation the Minister must —
  - (a) have regard to whether including the land in a redevelopment area will facilitate —
    - (i) the regeneration of the area; or
    - (ii) the provision of land suitable for commercial or residential purposes close to public transport; or
    - (iii) the establishment of new industries;and
  - (b) have regard to —
    - (i) the likely effect of including the land in a redevelopment area on the efficiency, effectiveness and integrity of the land use planning system provided for under the PAD Act; and
    - (ii) whether including the land in a redevelopment area is consistent with orderly and proper planning across the State;and
  - (c) advise the WAPC and each relevant local government of the proposed content of the regulations; and
  - (d) allow the WAPC and each relevant local government at least 30 days to make written recommendations to the Minister on the proposed content of the regulations.

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- (3) In subsection (2) —  
*relevant local government*, in relation to a proposed redevelopment area or a redevelopment area, means the local government of any district in which the redevelopment area will be, or is, wholly or partly situated.
- (4) Without limiting subsection (2), the Minister must not recommend the making of regulations to add land that is not contiguous with land in an existing redevelopment area to that area unless, in the Minister's opinion, the addition would be consistent with the objectives of the redevelopment area prescribed under section 30(5)(c).
- (5) If the Minister recommends the making of regulations the content of which is, in the Minister's opinion, significantly different to any recommendation made by the WAPC under this section, the Minister must cause notice of the difference to be laid before each House of Parliament or dealt with under section 132, within 14 days after the day on which the Minister's recommendation is given.
- (6) A notice under subsection (5) must include so much of the text of the Minister's and WAPC's recommendations as is sufficient to identify the area of difference.
- (7) The text of a notice under subsection (5) must be included in the annual report submitted by the accountable authority of the Authority under the *Financial Management Act 2006* Part 5.

**30. Regulations may declare redevelopment areas and provide for related matters**

- (1) Regulations may declare land that is —
  - (a) in the metropolitan region (other than the Swan Valley);  
and
  - (b) described in the regulations,to be a redevelopment area.

- (2) Regulations cannot be made under subsection (1) in respect of land that is the subject of an improvement scheme.
- (3) Land may be described under subsection (1)(b) by a land description or by reference to a plan held by the Authority, or both.
- (4) Under subsection (1) —
  - (a) one or more separate redevelopment areas may be declared; and
  - (b) more than one parcel of land may be declared to be a single redevelopment area; and
  - (c) if more than one parcel is so declared, the parcels need not be contiguous.
- (5) The regulations must —
  - (a) give each redevelopment area a name for the purposes of this Act; and
  - (b) if the redevelopment area is described in the regulations by reference to a plan held by the Authority, include for guidance a plan depicting the redevelopment area; and
  - (c) prescribe the objectives of the redevelopment area, being matters that —
    - (i) are of importance to the planning and development of the redevelopment area; and
    - (ii) must be taken into account in the preparation and approval of a redevelopment scheme for the area and the approval of development in the area.
- (6) When regulations made under this section are laid before a House of Parliament under the *Interpretation Act 1984* section 42, they must be accompanied by —
  - (a) an explanatory statement setting out the reasons for declaring the redevelopment area; and
  - (b) a plan depicting the redevelopment area.

**s. 31**

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*[Section 30 amended: No. 45 of 2020 s. 118.]*

**31. Regulations may amend redevelopment area**

- (1) Regulations declaring land to be a redevelopment area may be amended —
  - (a) to add land to the redevelopment area; or
  - (b) to remove land from the redevelopment area.
- (2) Regulations made for the purposes of subsection (1) may —
  - (a) delete the description of the redevelopment area and substitute a new description; or
  - (b) amend the redevelopment area by reference to any supplementary plan.
- (3) When regulations made under this section are laid before a House of Parliament under the *Interpretation Act 1984* section 42, they must be accompanied by —
  - (a) a plan depicting the redevelopment area before and after it was amended by the regulations; and
  - (b) an explanatory statement setting out the reasons for the amendment.

**32. Land added to redevelopment area, transitional matters**

- (1) If land is added to a redevelopment area by regulations made under section 31(1)(a), the added land is not subject to the approved redevelopment scheme for the area unless and until the scheme is amended under section 49 to apply to the added land.
- (2) On the day on which the approved redevelopment scheme is amended to apply to the added land, section 51, with any necessary changes, applies in respect of the added land.



**33. Land removed from redevelopment area, transitional matters**

If land is removed from a redevelopment area by regulations made under section 31(1)(b) —

- (a) the approved redevelopment scheme for the area ceases to apply to the removed land; and
- (b) a planning scheme that, but for section 51, would apply to the land, applies to the land,

unless regulations made under section 35 provide otherwise.

**34. Development applications not finalised when land removed**

- (1) If, when land is removed from a redevelopment area by regulations made under section 31(1)(b), a development application for the land —
  - (a) has not been decided; or
  - (b) having been so decided, is the subject of an application to the State Administrative Tribunal for a review that has not been finalised,

the development application or review must be decided in accordance with this Act and the approved redevelopment scheme that applied at the time the application was made.

- (2) For the purposes of subsection (1), this Act continues to apply, and the Authority or Planning Minister must continue to perform their functions, in relation to the development application and any application for review as if the approved redevelopment scheme were still in operation in relation to the land.

**35. Transitional regulations**

- (1) Regulations may be made for transitional purposes in respect of land and development on that land if the land is removed from a redevelopment area by regulations made under section 31(1)(b).

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- (2) The regulations may save rights existing when the land is removed or the area ceases to exist, but subject to any provisions in an approved redevelopment scheme that applied to the land and related to nonconforming uses.

**36. Evidentiary matters**

In any proceedings a plan purporting to be a copy of a plan referred to in section 30(3) or 31(2) showing the boundaries or any boundary of a redevelopment area is evidence of those boundaries or that boundary.

## **Part 5 — Redevelopment schemes**

### **Division 1 — Preparation and approval of redevelopment schemes**

**37. Draft redevelopment scheme: work prior to declaration of redevelopment area**

- (1) If the Authority decides to prepare a draft redevelopment scheme for a proposed redevelopment area, the Authority may consult —
  - (a) any local government of a district in which is land to which it is proposed the draft will relate; and
  - (b) any public authority or person that the Authority considers would be likely to be affected by the scheme if it were approved.
- (2) The Authority may do other preliminary work in relation to the preparation of a proposed redevelopment scheme for a proposed redevelopment area prior to the declaration of the redevelopment area but cannot act under section 39 or 40 until the redevelopment area is declared.

**38. Draft redevelopment scheme**

- (1) The Authority may prepare one or more draft redevelopment schemes for a redevelopment area.
- (2) A draft redevelopment scheme —
  - (a) may apply to all or part of a redevelopment area; and
  - (b) must specify the area to which it applies.
- (3) A draft redevelopment scheme may include any provision that the Authority considers will promote the orderly and proper planning, development and management of a redevelopment area.

- (4) In preparing a draft redevelopment scheme, the Authority must make reasonable endeavours to consult —
- (a) each local government of a district in which is land to which it is proposed the draft will relate; and
  - (b) any public authority or person that the Authority considers would be likely to be affected by the scheme if it were approved.
- (5) Subsection (4) does not apply if the local government, public authority or person has been consulted in respect of the proposed scheme under section 37(1).
- (6) In preparing a draft redevelopment scheme for all or part of a redevelopment area, the Authority must have regard to the following —
- (a) any objectives for the redevelopment area prescribed for the purposes of section 30(5)(c);
  - (b) the views of any local government, public authority or person consulted under section 37(1);
  - (c) the views of any local government, public authority or person consulted under subsection (4).
- (7) Without limiting subsection (3), a draft redevelopment scheme may —
- (a) include any provision that may be included in a local planning scheme;
  - (b) include provisions in relation to the payment of redevelopment and associated costs (***costs contributions***) by owners of land in the redevelopment area, including, but not limited to, providing for —
    - (i) the criteria for requiring costs contributions;
    - (ii) the payment, recovery and waiver of costs contributions;

- (iii) the Authority to determine the following —
  - (I) costs contribution areas in the redevelopment area;
  - (II) the purposes for which costs contributions are required;
  - (III) who is liable to pay costs contributions;
  - (IV) the criteria for estimating the amount of costs contributions;
  - (V) interest rates payable in respect of costs contributions;
- (iv) the Minister to approve determinations of the Authority in respect of costs contributions;
- (v) review of determinations of the Authority in respect of costs contributions;
- (c) provide that contravention of a provision of the scheme is an offence and prescribe a penalty not exceeding a fine of \$50 000, with or without a daily penalty not exceeding \$5 000, in respect of the offence.

**39. Draft redevelopment scheme to be submitted to relevant local government and WAPC**

- (1) Before submitting a draft redevelopment scheme to the Minister under section 41(1) the Authority must submit it to —
  - (a) the local government of each district in which is land to which the draft relates; and
  - (b) the WAPC.
- (2) At any time before a draft redevelopment scheme is submitted to the Minister under section 41(1) —
  - (a) the local government and the WAPC may give the Authority written submissions about the draft redevelopment scheme; and

- (b) the Authority may amend the draft to take account of those submissions.

**40. Draft redevelopment scheme to be referred to EPA**

- (1) The Authority must refer any draft redevelopment scheme to the EPA, together with such written information about it as is sufficient to enable the EPA to comply with the EP Act section 48A in relation to it.
- (2) If, under the EP Act section 48A(1)(b)(i), the EPA informs the Authority that the draft should be assessed by the EPA under the EP Act Part IV Division 3, the Authority must —
  - (a) within 7 days after the last day on which submissions may be made to the Authority under section 44, send the EPA a copy of each submission made under section 44 that relates wholly or in part to any environmental issue raised by the draft; and
  - (b) within 42 days after that last day, or such longer period as the Minister allows, advise the EPA of the Authority's views on and response to each environmental issue to which any such submission relates.
- (3) If, under the EP Act section 48C(1)(a), the EPA requires the Authority to undertake an environmental review of the draft, the Authority must, if it wants to proceed with the draft —
  - (a) undertake the review in accordance with the instructions issued under that section; and
  - (b) report to the EPA on the review.
- (4) If the EPA advises the Authority that the environmental review has not been undertaken in accordance with the instructions issued under the EP Act section 48C(1)(a), the Authority may —
  - (a) ask the Minister to consult with the Environment Minister and, if possible, agree with him or her on

whether or not the review has been undertaken in accordance with those instructions; or

- (b) comply with subsection (3).
- (5) If pursuant to a request made under subsection (4)(a) the Minister and the Environment Minister consult then —
- (a) if they agree whether or not the review has been undertaken in accordance with the instructions issued under the EP Act section 48C(1)(a), their decision is final and cannot be appealed;
  - (b) if they cannot agree, the EP Act section 48J applies.

**41. Draft redevelopment scheme to be submitted to Minister for publication approval**

- (1) After the Authority prepares a draft redevelopment scheme, the Authority must submit to the Minister —
- (a) the draft; and
  - (b) any submissions in respect of the draft made by a local government or the WAPC under section 39(2).
- (2) The draft redevelopment scheme must not be submitted to the Minister before —
- (a) each local government to which the draft was submitted under section 39(1) and the WAPC have made final submissions under section 39(2) in respect of the draft; or
  - (b) 42 days have elapsed since the Authority complied with section 39(1) in respect of the draft,

whichever occurs first.

- (3) If under section 40(3) the Authority is required to undertake an environmental review, the draft redevelopment scheme must not be submitted to the Minister before the Authority has sent the review to the EPA and —
- (a) either —

- (i) the EPA has advised the Authority; or
    - (ii) under section 40(5)(a) it is agreed; or
    - (iii) under the EP Act section 48J it is decided, that the review has been undertaken in accordance with the instructions issued under the EP Act section 48C(1)(a); or
  - (b) 30 days have elapsed since the day on which the review was sent to the EPA and the EPA has not advised whether or not the review has been undertaken in accordance with those instructions,
- whichever occurs first.
- (4) If under the EP Act section 48C the Authority is required to provide to the EPA a contaminated sites auditor's report on a draft redevelopment scheme, the draft redevelopment scheme must not be submitted to the Minister before 30 days have elapsed since the day on which the report was provided to the EPA.

**42. Minister's functions as to draft redevelopment scheme**

Having considered a draft redevelopment scheme submitted under section 41, the Minister may —

- (a) consent to the public notification of the draft; or
- (b) refuse to consent and require the Authority to prepare another or an amended draft in accordance with instructions given by the Minister.

**43. Public notification of draft redevelopment scheme**

- (1) If under section 42(a), the Minister consents to the public notification of a draft redevelopment scheme, the Authority must publish a notice stating the following —
  - (a) where and when a copy of the draft can be inspected;
  - (b) where and when a copy of the draft can be obtained;



- (c) the effect of section 44;
  - (d) the period within which submissions about the draft can be made, set under subsection (3).
- (2) The notice must be published —
- (a) in the *Gazette*; and
  - (b) in 2 issues of a newspaper circulating throughout the State.
- (3) The period within which submissions about the draft can be made must be set by the Authority, and must not be less than 60 days after the day on which the notice is published in the *Gazette*.
- (4) Regulations made under this Act may prescribe a fee for obtaining a copy of a draft redevelopment scheme.

**44. Public submissions on draft redevelopment scheme**

Any person may, within the period set under section 43(3), make a written submission to the Authority about a draft redevelopment scheme.

**45. Draft redevelopment scheme to be submitted to Minister for final approval**

- (1) After section 43 has been complied with and the period within which submissions about a draft redevelopment scheme can be made has elapsed, the Authority must submit the draft to the Minister.
- (2) The draft may include amendments that take account of any submission made under section 44.
- (3) The draft must be accompanied by —
  - (a) a summary of all the submissions made under section 44; and
  - (b) a report of the Authority on the merits of those submissions.

**46. Recommendation of WAPC**

- (1) The Authority must give the WAPC a copy of a draft redevelopment scheme submitted to the Minister under section 45(1).
- (2) The WAPC may give the Minister a written recommendation to —
  - (a) approve the draft redevelopment scheme; or
  - (b) refuse to approve the draft redevelopment scheme.
- (3) A recommendation under subsection (2)(b) may include a recommendation that the Minister require the Authority to prepare another or an amended draft redevelopment scheme in accordance with recommendations given by the WAPC.
- (4) The WAPC must give its recommendation, if any, as soon as is practicable and, in any event, not later than 30 days after the Authority complies with subsection (1) in respect of the draft redevelopment scheme.
- (5) The Minister must not act under section 47(1) until —
  - (a) the WAPC has made its recommendation on the draft redevelopment scheme; or
  - (b) 30 days have elapsed since the Authority complied with subsection (1) in respect of the draft redevelopment scheme.

**47. Minister's functions in deciding final approval**

- (1) After considering a draft redevelopment scheme submitted to him or her under section 45 by the Authority and any recommendation given by the WAPC under section 46, the Minister must —
  - (a) approve the draft redevelopment scheme; or
  - (b) refuse to approve the draft redevelopment scheme; or

- (c) approve the draft redevelopment scheme subject to amendments being made to it, as directed by the Minister.
- (2) The Minister must not act under subsection (1) —
- (a) until —
    - (i) under the EP Act section 48A(1)(a), the EPA has informed the Authority that the EPA considers that the draft should not be assessed by the EPA under the EP Act Part IV Division 3; or
    - (ii) the 28 day period referred to in the EP Act section 48A(1)(b)(i) has expired without the EPA having, under that section, informed the Authority; or
    - (iii) if a statement has been delivered under the EP Act section 48F(2) setting out the conditions, if any, to which the draft should be subject — the Minister is satisfied the submitted draft meets those conditions; or
    - (iv) if a decision has been made under the EP Act section 48J on the conditions, if any, to which the draft should be subject — the Minister is satisfied the submitted draft meets those conditions,whichever occurs first; or
  - (b) if, under the EP Act section 48A(2)(b), the Minister and the Environment Minister have made an agreement.
- (3) The Minister must have regard to the objectives for the redevelopment area prescribed for the purposes of section 30(5)(c) when deciding whether to approve a draft redevelopment scheme for that area.
- (4) If the Minister approves a draft redevelopment scheme the content of which is, in the Minister’s opinion, significantly different to any recommendation given by the WAPC under

section 46, the Minister must cause notice of the difference to be laid before each House of Parliament or dealt with under section 132, within 14 days after the scheme start day.

- (5) A notice under subsection (4) must include so much of the text of the draft and of the recommendation as is sufficient to identify the area of difference.
- (6) The text of a notice under subsection (4) must be included in the annual report submitted by the accountable authority of the Authority under the *Financial Management Act 2006* Part 5.
- (7) If the Minister refuses to approve a draft redevelopment scheme, the Minister may give directions to the Authority as to the preparation of a further draft redevelopment scheme and as to the submission of the scheme under section 41 or 45 as the Minister may specify.
- (8) Sections 115 and 116, with any necessary changes, apply to a direction under subsection (7).

**48. Gazettal and operation of approved redevelopment scheme**

- (1) If under section 47 the Minister approves a redevelopment scheme, the Authority must publish in the *Gazette* a notice of —
  - (a) the approval; and
  - (b) the day on which the approved redevelopment scheme comes into operation; and
  - (c) where and when a copy of the approved redevelopment scheme can be inspected; and
  - (d) where and when a copy of the approved redevelopment scheme can be obtained.
- (2) An approved redevelopment scheme comes into operation on the day after the day on which the notice is published under subsection (1) or on a later day specified in the scheme.

- (3) An approved redevelopment scheme must be made available by the Authority for inspection by the public during office hours free of charge.
- (4) Regulations made under this Act may prescribe a fee for obtaining a copy of an approved redevelopment scheme.

### **Division 2 — Amendment and repeal of approved redevelopment scheme**

#### **49. Amendment of approved redevelopment scheme**

- (1) The Authority may prepare a draft amendment to an approved redevelopment scheme.
- (2) Sections 40 to 48, with necessary changes, apply to a draft amendment or an amendment as if —
  - (a) any reference in those sections to a draft redevelopment scheme were a reference to the draft amendment; and
  - (b) in section 42(b) the words “and may require” were substituted for “and require”;
  - (c) the reference in section 43(3) to 60 days were a reference to 42 days; and
  - (d) the reference in section 47(7) to a further draft redevelopment scheme were a reference to a further draft amendment; and
  - (e) any reference in section 48 to an approved redevelopment scheme were a reference to an approved amendment.

#### **50. Repeal of approved redevelopment scheme**

- (1) An approved redevelopment scheme that, immediately before a redevelopment area ceases to exist, applied to the redevelopment area is to be taken to have been repealed when the redevelopment area ceases to exist.

- (2) An approved redevelopment scheme may be repealed by a subsequent redevelopment scheme.

**Division 3 — Effect of redevelopment scheme**

**51. Effect of approved redevelopment scheme on planning schemes**

- (1) On the scheme start day for land in a redevelopment area, any planning scheme that applies to the land immediately before that day ceases to apply —
- (a) to that land; and
  - (b) to any development of that land commenced on or after that day.
- (2) Subsection (1) does not affect the operation of sections 55, 56 and 58.
- (3) The *Interpretation Act 1984* section 37 applies in respect of subsection (1) as if a planning scheme were an enactment and the subsection repealed the scheme insofar as it applies to the land and development of the land.
- (4) Subsection (3) operates subject to any provision in the approved redevelopment scheme that relates to nonconforming uses.
- (5) This section does not apply in relation to a development that was lawfully being carried out in the redevelopment area immediately before the scheme start day.
- (6) A development referred to in subsection (5) or in respect of which all necessary approvals under the planning schemes referred to in subsection (1) were in force immediately before the scheme start day —
- (a) may be lawfully carried out as if this section were not in operation; and
  - (b) despite subsection (1), is governed by the PAD Act and those planning schemes.

**52. Inconsistency with regulations**

- (1) An approved redevelopment scheme must not be inconsistent with any regulations made under this Act.
- (2) If a provision of an approved redevelopment scheme is inconsistent with regulations made under this Act, the provision is void to the extent of the inconsistency.

**53. Approved redevelopment scheme has legislative effect**

- (1) An approved redevelopment scheme has legislative effect.
- (2) For the purposes of the *Interpretation Act 1984* and to avoid doubt, an approved redevelopment scheme is subsidiary legislation made under this Act.
- (3) The *Interpretation Act 1984* section 41 does not apply to an approved redevelopment scheme.

**54. Authority to comply with redevelopment schemes**

- (1) The Authority must perform its functions in relation to a redevelopment area in accordance with the approved redevelopment scheme for that area.
- (2) Subsection (1) does not affect the discretion conferred on the Authority by section 66(1).

**55. Applications for approval not finalised on scheme start day**

- (1) If, on the scheme start day for land in a redevelopment area, an application for approval under a planning scheme for the land —
  - (a) has not been decided; or
  - (b) having been so decided, is the subject of an application to the State Administrative Tribunal for a review that has not been finalised,

the application or review must be decided in accordance with the PAD Act and the planning scheme that applied at the time the application was made.

- (2) For the purposes of subsection (1), the PAD Act and planning scheme continue to apply, and the relevant responsible authority must continue to perform its functions, in relation to the application and any application for review as if the planning scheme were still in operation in relation to the land.

**56. Transitional regulations**

- (1) Regulations may be made for transitional purposes in respect of land and development on it if a planning scheme ceases to apply to the land under section 51.
- (2) The regulations may save rights existing immediately before the planning scheme ceased to apply, but subject to any provisions in the PAD Act or any planning scheme that applied to the land and related to nonconforming uses.

**57. Minister may amend local planning scheme to conform with redevelopment scheme**

- (1) The Planning Minister may, while an approved redevelopment scheme is of effect, publish in the *Gazette* a notice amending a local planning scheme that, but for section 51, would apply to land to which the redevelopment scheme applies so that the planning scheme is consistent with the redevelopment scheme.
- (2) An amendment published under subsection (1) has effect, by force of this subsection and without further action, on the day on which the redevelopment scheme ceases to apply to the land.

**58. Certain planning schemes affecting redevelopment area not to operate until redevelopment scheme ceases to apply**

- (1) Subject to subsection (2) and without limiting section 57, this Division does not prevent a planning scheme, or amendment to a planning scheme, that, but for section 51, would apply to land



in a redevelopment area being made after a scheme start day so as to commence when the redevelopment scheme ceases to apply to the land.

- (2) A planning scheme, or an amendment to a planning scheme, made after a scheme start day, insofar as it purports to apply to land in a redevelopment area, has no effect while the redevelopment scheme has effect.

## **Part 6 — Development control in redevelopment area**

### **Division 1 — State bound**

#### **59. Part binds State**

This Part binds the State and, so far as the legislative power of the State permits, the Crown in all its other capacities.

### **Division 2 — Developments by Authority**

#### **60. Authority must get Minister's approval for development**

(1) In this section —

*Minister* means the Planning Minister.

- (2) The Authority must not undertake development, or cause any development to be undertaken, unless the development is approved by the Minister.
- (3) If the Authority has a financial interest in the subject matter of a development application by reason of its participation in a business arrangement, as defined in section 11(1), the Authority —
- (a) must not make a decision on the application; and
  - (b) must forward the application to the Minister.
- (4) The Minister must decide whether or not to approve an application for approval under subsection (2) or a development application forwarded under subsection (3).
- (5) The Authority must provide the Minister with all relevant information to enable a decision to be made under this section, and may make a recommendation as to the decision to be made.
- (6) Section 63 does not apply to an application by, or forwarded by, the Authority for the Minister's approval under this section but the Minister must, on receipt of the application, otherwise

comply with section 64 as if any reference in the section to the Authority were a reference to the Minister.

- (7) Section 65 applies to an application by, or forwarded by, the Authority for the Minister's approval under this section as if —
- (a) for the purposes of section 65(2), the application had been determined to be a major application; and
  - (b) any reference in the section to the Authority were a reference to the Minister.
- (8) Sections 66 and 67 apply to —
- (a) any application by, or forwarded by, the Authority for the Minister's approval under this section; and
  - (b) any development approval under this section,

as if any reference in those sections to the Authority were a reference to the Minister.

### **Division 3 — Development control by Authority**

#### **61. Application of this Division**

It is immaterial for the purposes of this Division that a development is undertaken in the performance of a function vested in a person by a written law.

#### **62. Undertaking unauthorised development an offence**

- (1) In this section —  
*development approval* includes an approval issued under section 60.
- (2) A person who undertakes any development on land to which an approved redevelopment scheme applies, or causes any such development to be undertaken, commits an offence unless the development is authorised by a development approval.  
Penalty: a fine of \$200 000 and a daily penalty of \$25 000.

- (3) A person who, while a development approval is in force, undertakes any development, or causes any development to be undertaken, that contravenes the approval, or any condition to which the approval is subject, commits an offence.

Penalty: a fine of \$200 000 and a daily penalty of \$25 000.

**63. Initial assessment of development application**

- (1) On receiving a development application, the Authority must assess the application and determine, in accordance with criteria prescribed by the regulations, whether the development application is —
- (a) a standard application; or
  - (b) a major application.
- (2) The Authority must give written notice of its determination under this section to the applicant.

**64. Notice of development application**

- (1) After assessing a development application under section 63, the Authority —
- (a) must give written notice of the particulars of the application, its determination under section 63 and of the effect of section 65(1), to —
    - (i) the local government of the district in which the proposed development will be carried out; and
    - (ii) each local government and public authority prescribed by the regulations as a local government or public authority that must be notified of the development application; and
    - (iii) any other public authority that appears to the Authority to have functions relevant to, or whose operations appear to the Authority to be likely to be affected by, the proposed development;
- and

(b) may give written notice of the particulars of the application, its determination under section 63 and of the effect of section 65(1) to any other person it thinks fit.

(2) A person notified under subsection (1) may give the Authority a written submission about the proposed development.

**65. When development application must be decided**

(1) The Authority must not decide a development application until —

- (a) at least 42 days after the day on which section 64(1)(a)(i) and (ii) are complied with; or
- (b) final submissions are made to it by each person notified under section 64(1),

whichever occurs first.

(2) If the Authority does not give the applicant written notice of its decision on —

- (a) a development application determined under section 63 to be a standard application within 90 days after the date on which it receives the application; or
- (b) a development application determined under section 63 to be a major application within 120 days after the date on which it receives the application,

or within any longer period that the Authority and the applicant agree on, the application is taken to have been refused under section 66.

(3) Despite subsection (2), the Authority may decide a development application under section 66, and may give the applicant written notice of its decision, after the period applicable under subsection (2) has expired.

- (4) The validity of a decision made or notified after the period applicable under subsection (2) has expired is not affected by the expiry of that period.

**66. Deciding development application**

- (1) In considering a development application, the Authority must have regard to the following —
- (a) the approved redevelopment scheme that applies to the land on which the development is proposed;
  - (b) the objectives for the redevelopment area in which the development is proposed that are prescribed under section 30(5)(c);
  - (c) any submission received from a person notified under section 64;
  - (d) the requirements of orderly and proper planning;
  - (e) the desired amenity of the redevelopment area in which the development is proposed.
- (2) After considering a development application, the Authority may —
- (a) refuse to issue a development approval for the proposed development; or
  - (b) issue a development approval for the proposed development.
- (3) If the Authority approves a development application, it must decide the period within which any development approved must be substantially commenced.
- (4) A development approval may be issued subject to any condition decided by the Authority.
- (5) Without limiting subsection (4), the Authority —
- (a) may impose a condition that states that the development approved is approved temporarily for a period specified

in the condition and must cease or be demolished when the period ends; and

- (b) may impose a condition that states that the development approved cannot be commenced, continued or carried out until an act or event specified in the condition has occurred.
- (6) The Authority must give written notice of any decision under this section to the applicant and each person notified under section 64(1).
- (7) Subject to section 67 and any condition limiting the time for which it remains in force, a development approval for land remains in force even if the land ceases to be in a redevelopment area.

**67. Duration of development approval**

If development approved under a development approval is not substantially commenced within the period decided under section 66(3), the development approval lapses.

**68. Development may be approved after it is undertaken**

- (1) The Authority may issue a development approval for development already commenced or carried out.
- (2) Subsection (1) does not affect the operation of section 62 in respect of development undertaken before approval is granted.
- (3) Development which was unlawfully undertaken is not rendered lawful by the occurrence of any subsequent event except the issue of a development approval by the Authority.
- (4) The continuation of development unlawfully commenced is to be taken to be lawful upon the issue of a development approval for the development.

**69. Review of Authority's decision by SAT**

- (1) An applicant for a development approval may apply to the State Administrative Tribunal for a review, in accordance with the PAD Act Part 14, of a decision of the Authority taken to have been made under section 65(2) or made under section 66 in respect of the applicant's application.
- (2) For the purposes of the PAD Act Part 14, an approved redevelopment scheme is taken to be a planning scheme within the meaning of that Act.

**Division 4 — Unauthorised developments**

**70. Terms used**

In this Division —

*development approval* includes an approval under section 60;

*unauthorised development* means a development —

- (a) that is not the subject of a development approval; or
- (b) that contravenes a development approval or any condition to which a development approval is subject.

**71. Unauthorised developments: Authority's powers**

- (1) The Authority, by a written notice served on the person, may —
  - (a) direct a person who is undertaking an unauthorised development on land in a redevelopment area to stop doing so immediately; or
  - (b) direct a person who has undertaken unauthorised development on land in a redevelopment area —
    - (i) to remove, pull down, take up or alter the development; and
    - (ii) to do so before a day specified in the notice being a day not less than 21 days after the day on which the notice is served;



or

- (c) direct a person who has undertaken unauthorised development on land in a redevelopment area —
  - (i) to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the Authority; and
  - (ii) to do so before a day specified in the notice being a day not less than 21 days after the day on which the notice is served;

or

- (d) give the person more than one of the directions permitted by paragraph (a), (b) or (c).
- (2) A person served with a notice under subsection (1) must comply with any direction in the notice.

Penalty: a fine of \$200 000 and a daily penalty of \$25 000.

**72. Review of directions given under section 71**

- (1) If a person is given a direction by notice under section 71(1), the person may apply to the State Administrative Tribunal for a review of the direction.
- (2) The PAD Act Part 14 applies to and in respect of an application made under subsection (1).
- (3) If an application is made under subsection (1) for a review of a direction given by notice under section 71(1)(a), the direction is not suspended pending the determination of the application.
- (4) If an application is made under subsection (1) for a review of a direction given by notice under section 71(1)(b) or (c), the direction —
  - (a) is suspended until the application is decided, dismissed, struck out or withdrawn; and
  - (b) unless the Tribunal decides to vary it or set it aside, then ceases to be suspended and operates subject to any order

made by the Tribunal changing the day specified under section 71(1)(b)(ii) or (c)(ii), as the case may be.

- (5) If the Tribunal varies a direction given under section 71(1)(b) or (c) to a person, it may, by written notice served on the person, direct the person to comply with the varied direction before a day specified in the notice, being a day not less than 21 days after the day on which the notice is served.

**73. Authority may give effect to directions under section 71**

- (1) If a person does not comply with a direction given to the person by notice under section 71(1) and —
- (a) an application for a review is not made under section 72(1) within the time allowed for doing so; or
  - (b) such an application is made and the direction is not varied or set aside,

the Authority, subject to any order of the State Administrative Tribunal, may itself do what the person was directed to do.

- (2) If a person does not comply with a direction given to the person by notice under section 72(5), the Authority may itself do what the person was directed to do.
- (3) The Authority may recover the costs incurred by it in exercising powers under subsection (1) or (2) from the person who did not comply as a debt due to the Authority in a court of competent jurisdiction.

**Division 5 — Miscellaneous matters**

**74. Minister's powers to ensure environmental conditions are met**

- (1) In this section —
- assessed scheme* means an approved redevelopment scheme that is an assessed scheme within the meaning given in the EP Act section 3(1);

***environmental condition*** means a condition agreed under the EP Act section 48F or decided under the EP Act section 48J.

- (2) This section does not prevent or otherwise affect the application of the EP Act Part V to —
- (a) a development referred to in subsection (3); or
  - (b) pollution or environmental harm caused by any noncompliance with an environmental condition referred to in subsection (3).
- (3) After receiving advice given under the EP Act section 48H(4) in relation to an environmental condition that applies to an assessed scheme, the Minister may, in relation to a development on land to which the scheme applies, exercise one or more of the following powers —
- (a) by a written notice served on the person who is undertaking the development, direct the person to stop doing so for a period specified in the notice, being a period that begins when the notice is served and ends not more than 24 hours later;
  - (b) cause the Authority to serve a written notice on the person who is undertaking the development directing the person to take such steps as are specified in the notice, within such period as is specified in the notice, for the purpose of —
    - (i) complying with; or
    - (ii) preventing noncompliance with, the environmental condition.
- (4) A person served with a notice under subsection (3) must comply with the notice.

Penalty: a fine of \$200 000 and a daily penalty of \$25 000.

**75. Injurious affection: compensation**

- (1) The PAD Act Part 11 Divisions 1 and 2 and sections 184(3) and (4), 187 and 188, with any necessary changes, apply to land in a redevelopment area as if —
  - (a) the approved redevelopment scheme for the redevelopment area were a planning scheme; and
  - (b) the Authority were a responsible authority under that Act; and
  - (c) in the case of land reserved or zoned for a public purpose under the approved redevelopment scheme, the land were reserved for a public purpose under a planning scheme.
- (2) Compensation is not payable under the PAD Act as applied by subsection (1) if payment has been made for the same, or substantially the same, injurious affection under that Act as in operation otherwise than as applied by this section.
- (3) If —
  - (a) a claim for compensation is made in respect of land but not disposed of before the day on which an approved redevelopment scheme operates in respect of the land; and
  - (b) the claim is one that might have been made under this section,

the claim may be continued after that day as if it had been made under this section.

## **Part 7 — General administration of Authority and LRCs**

### **Division 1 — Board of management of Authority**

#### **76. Board is governing body**

- (1) The Authority is to have a board of management.
- (2) The board of management is the governing body of the Authority and, in the name of the Authority, is to perform the functions of the Authority under this Act or any other written law.

#### **77. How board is constituted**

- (1) The Authority's board of management consists of 7 members appointed by the Minister of whom —
  - (a) one is to be an appointed member of the board of management of the WAPC nominated by the WAPC; and
  - (b) one is to be a person who in the opinion of the Minister has knowledge of or experience in local government; and
  - (c) each of the others is to be a person who in the opinion of the Minister has a relevant qualification.
- (2) A relevant qualification for the purposes of subsection (1)(c) is knowledge of and experience in one or more of the fields of urban planning, business management, property development, financial management, engineering, transport, housing, tourism development, planning law or community affairs.
- (3) A person who is a staff member is not eligible to be appointed to the Authority's board of management.

- (4) The Minister is to designate one of the members appointed under subsection (1)(b) or (c) to be the chairperson of the board and another to be the deputy chairperson of the board.

**78. Remuneration and allowances**

Members of the Authority's board of management are entitled to be paid out of the funds of the Authority any remuneration and allowances that the Minister may from time to time determine on the recommendation of the Public Sector Commissioner.

**79. Term of office**

- (1) The term for which the Minister appoints a person to be a member of the Authority's board of management is to be fixed in the instrument of appointment and is to be no longer than 3 years.
- (2) A person's eligibility for reappointment or the term for which a person may be reappointed is not affected by an earlier appointment.

**Division 2 — Land Redevelopment Committees**

**80. How LRC is constituted**

- (1) An LRC consists of 5 members appointed by the Minister of whom —
- (a) one is to be a member of the Authority's board of management nominated by the Authority; and
  - (b) one is to be a person nominated in accordance with section 81; and
  - (c) each of the others is to be a person who in the opinion of the Minister has a relevant qualification.
- (2) A relevant qualification for the purposes of subsection (1)(c) is knowledge of and experience in one or more of the fields of

urban planning, business management, property development, financial management, engineering, transport, housing, tourism development, planning law or community affairs.

- (3) The Authority may provide the Minister with its recommendation as to who should be appointed to the LRC under subsection (1)(b) or (c).
- (4) The Minister must have regard to any recommendation received under subsection (3) but is not required to follow the recommendation.
- (5) Not more than 2 members of an LRC may be members of the Authority's board of management.
- (6) A person who is a staff member is not eligible to be appointed to an LRC.
- (7) The Minister may, in the instrument of appointment of a member, designate the member to be the chairperson or the deputy chairperson of the LRC.
- (8) If the Minister does not designate a chairperson under subsection (7), the member appointed under subsection (1)(a) is the chairperson of the LRC.
- (9) If the Minister does not designate a deputy chairperson under subsection (7), the members of the LRC are to appoint one of their number as the deputy chairperson.

**81. Nominations for appointment under section 80(1)(b)**

- (1) In this section —  
*relevant local government*, in relation to an LRC, means the local government of a district in which the redevelopment area in respect of which the LRC is established is wholly or partly situated.
- (2) Whenever it is necessary to appoint a member of an LRC under section 80(1)(b), the Minister must, in writing, request each

relevant local government to nominate 3 persons for appointment.

- (3) If within 42 days after the date on which the Minister makes a request under subsection (2) each relevant local government has nominated 3 persons for appointment, the Minister must appoint one of the persons nominated.
- (4) If within 42 days after the date on which the Minister makes a request under subsection (2) each relevant local government has not nominated 3 persons for appointment, the Minister may appoint under section 80(1)(b) a person who in the opinion of the Minister has knowledge of or experience in local government and that person is to be regarded as having been nominated under this section.
- (5) The Minister may have regard to a nomination made by a relevant local government when making an appointment referred to in subsection (4) but is not required to appoint a person so nominated.

## **82. Appointment of initial LRC members**

- (1) In this section —  
*appointment period*, in relation to a member of an LRC, means —
  - (a) in the case of a member referred to in section 80(1)(a) or (c), the period ending 60 days after the Authority establishes the LRC under section 26; and
  - (b) in the case of a member referred to in section 80(1)(b), the period ending 72 days after the date on which the Minister first makes a request under section 81(2) in respect of the member.
- (2) If the Minister does not appoint a member of an LRC before the end of the appointment period in respect of that member, the Minister must —



- (a) prepare a statement setting out the reason for not appointing the member; and
- (b) cause a copy of the statement to be laid before each House of Parliament, or dealt with under section 132, not later than 10 days after the day on which the appointment period ends.

**83. Remuneration and allowances**

Members of an LRC are entitled to be paid out of the funds of the Authority any remuneration and allowances that the Minister may from time to time determine on the recommendation of the Public Sector Commissioner.

**84. Term of office**

- (1) The term for which the Minister appoints a person to be a member of an LRC is to be fixed in the instrument of appointment and is to be no longer than 2 years.
- (2) A person's eligibility for reappointment or the term for which a person may be reappointed is not affected by an earlier appointment.

**Division 3 — Provisions that apply to Authority's board of management and to LRCs**

**Subdivision 1 — General provisions**

**85. Term used: member**

In this Subdivision —

*member* means a member of the Authority's board of management or a member of an LRC.

**86. Casual vacancies**

- (1) The office of a member becomes vacant if the member —

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- (a) dies, resigns or is removed from office under this section; or
  - (b) is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
  - (c) is convicted of an offence punishable by imprisonment for more than 12 months; or
  - (d) is convicted of an offence against section 97(1) or (2); or
  - (e) in the case of a person appointed under section 77(1)(a), ceases to be a member of the board of management of the WAPC; or
  - (f) in the case of a person appointed under section 80(1)(a), ceases to be a member of the Authority's board of management.
- (2) A member may at any time resign from office by written resignation given to the Minister.
- (3) The Minister may remove a member from office on the grounds of —
- (a) neglect of duty; or
  - (b) misconduct or incompetence; or
  - (c) mental or physical incapacity to carry out the person's duties in a satisfactory manner; or
  - (d) absence, without leave, from 3 consecutive meetings of the board or LRC, as the case requires, of which the member has had notice.
- (4) If —
- (a) under section 26(3) the Authority determines that an LRC that is already established in respect of a redevelopment area is to be taken to be established as the LRC in respect of a redevelopment area that includes part or all of a local government district that was not previously included in a redevelopment area in respect

of which the LRC was already established (a *new district*); or

- (b) a redevelopment area is amended to include part or all of a local government district that was not previously included in that area (a *new district*),

the local government of the new district may, within 42 days of the determination or amendment taking effect, nominate a person for appointment under section 80(1)(b).

- (5) If the Minister decides to appoint a person nominated under subsection (4), the Minister may —
  - (a) remove from office the member appointed under section 80(1)(b); and
  - (b) appoint under section 80(1)(b) the person nominated under subsection (4).

**87. Extension of term of office during vacancy in membership**

- (1) If the office of a member becomes vacant because the member's term of office expires by effluxion of time, the member is taken to continue to be a member during that vacancy until the date on which the vacancy is filled (whether by reappointment of the member or appointment of a successor to the member).
- (2) However, subsection (1) ceases to apply if the member resigns or is removed from office under section 86.
- (3) The maximum period for which a member is taken to continue to be a member under this section after the member's term of office expires is 3 months.

**88. Leave of absence**

- (1) The Authority's board of management may, on any terms and conditions it thinks fit, grant a member of the board leave to be absent from office.
- (2) An LRC may, on any terms and conditions it thinks fit, grant a member of the LRC leave to be absent from office.

**89. Deputy chairperson acting as chairperson**

- (1) If the chairperson of the Authority's board of management or of an LRC is unable to act because of sickness, absence or other cause or if there is no chairperson, the deputy chairperson of the board or LRC, as the case requires, is to act in the chairperson's place.
- (2) An act or omission of the deputy chairperson acting in the chairperson's place cannot be questioned on the ground that the occasion to act in the chairperson's place had not arisen or had ceased.

**90. Alternate members**

- (1) In this section —  
*cause* includes —
  - (a) illness; and
  - (b) absence; and
  - (c) the operation of section 98(1).
- (2) If a member other than the chairperson of the Authority's board of management or of an LRC is unable for any cause to act as a member, the Minister may appoint another person as an alternate member to act temporarily in the member's place.
- (3) If the deputy chairperson of the Authority's board of management or of an LRC is unable for any cause to act in place of the chairperson at a meeting —
  - (a) the members present may elect one of their number to act as chairperson; and
  - (b) subsection (2) applies as if the member elected were absent from the meeting.
- (4) While acting in accordance with the appointment the alternate member is to be taken to be, and to have any entitlement of, a member.

- (5) An act or omission of an alternate member cannot be questioned on the ground that the occasion for the appointment or acting had not arisen or had ceased.

**Subdivision 2 — Disclosure of material personal interests**

**91. Terms used**

In this Subdivision —

*committee* means a committee established under section 112;

*member* means —

- (a) a member of the Authority's board of management; or
- (b) a member of an LRC; or
- (c) a member of a committee.

**92. When a member has a material personal interest**

For the purposes of this Subdivision, a member has a material personal interest in a matter if either —

- (a) the member; or
- (b) a person with whom the member is closely associated,

has —

- (c) a direct or indirect financial interest in the matter; or
- (d) a proximity interest in the matter.

**93. Financial interest**

- (1) For the purposes of this Subdivision, a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the Authority, an LRC or a committee in a particular way, result in a financial gain, loss, benefit or detriment for the person.
- (2) A reference in this Subdivision to an indirect financial interest of a person in a matter includes a reference to a financial relationship between that person and another person who

requires a decision by the Authority, an LRC or a committee in relation to the matter.

**94. Proximity interest**

- (1) For the purposes of this Subdivision, a person has a proximity interest in a matter if the matter concerns —
  - (a) a proposed change to a redevelopment scheme affecting land that adjoins the person's land; or
  - (b) a proposed change to the zoning or use of land that adjoins the person's land; or
  - (c) a proposed development of land that adjoins the person's land.
- (2) In this section, land (the *proposal land*) adjoins a person's land if —
  - (a) the proposal land, not being a thoroughfare, has a common boundary with the person's land; or
  - (b) the proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or
  - (c) the proposal land is that part of a thoroughfare that has a common boundary with the person's land.
- (3) In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.

**95. Closely associated persons**

- (1) For the purposes of this Subdivision a person is to be treated as being closely associated with a member if —
  - (a) the person is in partnership with the member; or
  - (b) the person is an employer of the member; or
  - (c) the person is a beneficiary under a trust, or an object of a discretionary trust, of which the member is a trustee; or
  - (d) the person is a body corporate —

- (i) of which the member is a director, secretary or executive officer; or
  - (ii) in which the member holds shares having a total value exceeding —
    - (I) the amount prescribed by the regulations; or
    - (II) the percentage prescribed by the regulations of the total value of the issued share capital of the company, whichever is less;
- or
- (e) the person belongs to a class of persons that is prescribed; or
  - (f) the person is the spouse, de facto partner or child of the member and is living with the member; or
  - (g) the person has a relationship specified in any of paragraphs (a) to (e) in respect of the member's spouse or de facto partner if the spouse or de facto partner is living with the member.
- (2) In subsection (1)(d) —  
**value**, in relation to shares, means the value of the shares calculated in the manner prescribed by the regulations or using the method prescribed by the regulations.

**96. Some interests need not be disclosed**

- (1) If a member has a financial interest because the valuation of land in which the member has an interest may be affected by —
  - (a) any proposed change to a redevelopment scheme; or
  - (b) any proposed change to the zoning or use of land in a redevelopment area; or
  - (c) the proposed development of land in a redevelopment area,

then, subject to subsections (2) and (3), the member is not to be treated as having an interest in a matter for the purposes of section 97.

- (2) If a member has a financial interest because the valuation of land in which the member has an interest may be affected by —
- (a) any proposed change to a redevelopment scheme for that land or any land adjacent to that land; or
  - (b) any proposed change to the zoning or use of that land or any land adjacent to that land; or
  - (c) the proposed development of that land or any land adjacent to that land,

then nothing in this section prevents section 97 from applying to the member.

- (3) If a member has a financial interest because any land in which the member has any interest other than an interest relating to the valuation of that land or any land adjacent to that land may be affected by —
- (a) any proposed change to a redevelopment scheme; or
  - (b) any proposed change to the zoning or use of land in a redevelopment area; or
  - (c) the proposed development of land in a redevelopment area,

then nothing in this section prevents section 97 from applying to the member.

- (4) A reference in subsection (1), (2) or (3) to the development of land is a reference to the development, maintenance or management of the land or of services or facilities on the land.

**97. Disclosure of material personal interest**

- (1) A member of the Authority's board of management who has a material personal interest in a matter being considered or about to be considered by the board must, as soon as practicable after



the relevant facts have come to the member's knowledge, disclose the nature and extent of the interest at a meeting of the board.

Penalty: a fine of \$10 000.

- (2) A member of an LRC who has a material personal interest in a matter being considered or about to be considered by the LRC must, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature and extent of the interest at a meeting of the LRC.

Penalty: a fine of \$10 000.

- (3) A member of a committee who has a material personal interest in a matter being considered or about to be considered by the committee must, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature and extent of the interest at a meeting of the committee.

Penalty: a fine of \$10 000.

- (4) Subsection (2) applies to a person who is a member of an LRC and also a member of the Authority's board of management even though the person has already disclosed the nature and extent of the interest at a meeting of the board.

- (5) Subsection (3) applies to a person who is a member of a committee and also a member of the Authority's board of management or an LRC even though the person has already disclosed the nature and extent of the interest at a meeting of the board or LRC.

- (6) A disclosure under subsection (1), (2) or (3) must be recorded in the minutes of the meeting.

**98. Voting by interested member**

- (1) A member of the Authority's board of management or a member of an LRC or a committee who has a material personal

interest in a matter that is being considered by the board, the LRC or the committee —

- (a) must not vote, whether at a meeting or otherwise, on the matter; and
  - (b) must not be present while the matter is being considered at a meeting.
- (2) A reference in subsection (1)(a) or (b) to a matter includes a reference to a proposed resolution under section 99 in respect of the matter, whether relating to that member or a different member.
- (3) A member who commits a breach of a provision of this section is liable to the Authority for any profit made by the member or for any damage suffered by the Authority as a result of the breach of that provision.

**99. Section 98 may be declared inapplicable**

Section 98 does not apply if —

- (a) a member has disclosed under section 97 an interest in a matter; and
- (b) the board, the LRC or the committee, as the case required has at any time passed a resolution that —
  - (i) specifies the member, the interest and the matter; and
  - (ii) states that the members voting for the resolution are satisfied that the interest is so trivial or insignificant as to be unlikely to influence the disclosing member's conduct and should not disqualify the member from considering or voting on the matter.

**100. Quorum where section 98 applies**

- (1) Despite section 103(1), if a member of the Authority's board of management is disqualified under section 98 in relation to a

matter, a quorum is present during the consideration of the matter if at least 3 members are present who are entitled to vote on any motion that may be moved at the meeting in relation to the matter.

- (2) The Minister may deal with a matter to the extent that the Authority's board of management cannot deal with it because of subsection (1).
- (3) Despite section 103(2), if a member of an LRC is disqualified under section 98 in relation to a matter, a quorum is present during the consideration of the matter if at least 2 members are present who are entitled to vote on any motion that may be moved at the meeting in relation to the matter.
- (4) The Authority may deal with a matter to the extent that an LRC cannot deal with it because of subsection (3).

**101. Minister may declare sections 98 and 100 inapplicable**

- (1) The Minister may by writing declare that section 98 or 100 does not apply in relation to a specified matter, either generally or for the purpose of dealing with particular proposed resolutions.
- (2) The Minister must, within 14 days after a declaration under subsection (1) is made, cause the text of the declaration to be laid before each House of Parliament or dealt with under section 132.

**Subdivision 3 — Meetings**

**102. Holding meetings**

- (1) The first meeting of the Authority's board of management or an LRC is to be convened by its chairperson and subsequent meetings, unless convened under subsection (2), are to be held at times and places determined by the Authority's board of management or LRC, as the case requires.

- (2) A special meeting of the Authority's board of management or an LRC may at any time be convened by its chairperson.

**103. Quorum**

- (1) Four members of the Authority's board of management constitute a quorum.
- (2) Three members of an LRC constitute a quorum.

**104. Procedure at meetings**

- (1) The Authority's board of management is to determine its own meeting procedures to the extent that they are not fixed by this Act.
- (2) An LRC may determine its own meeting procedures to the extent that they are not fixed by this Act but they must be consistent with any directions of the Authority's board of management and the terms of any delegation under which the committee is acting.

**105. Voting**

- (1) At a meeting of the Authority's board of management or an LRC, each member present has a deliberative vote unless section 98 prevents the member from voting.
- (2) In the case of an equality of votes, the member presiding has a casting vote in addition to a deliberative vote.
- (3) A question is resolved according to how a majority of the votes are cast.

**106. Holding meetings remotely**

The presence of a person at a meeting of the Authority's board of management or an LRC need not be by attendance in person but may be by that person and each other person at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.

**107. Resolution without meeting**

A resolution in writing signed or otherwise assented to in writing by each member of the Authority's board of management or each member of an LRC has the same effect as if it had been passed at a meeting of the board or LRC, as the case requires.

**108. Minutes to be kept**

- (1) The Authority is to cause accurate minutes to be kept of the proceedings at meetings of its board of management.
- (2) The member presiding at a meeting of an LRC is to cause accurate minutes to be kept of the meeting's proceedings.
- (3) An LRC must submit the minutes of each meeting of the LRC to the next following meeting of the Authority's board of management.

**Division 4 — Staff, contractors and committees**

**109. Chief executive officer**

- (1) A chief executive officer of the Authority is to be appointed under the *Public Sector Management Act 1994* Part 3.
- (2) Subject to the control of the Authority's board of management, the chief executive officer is to administer the day-to-day operations of the Authority.

**110. Other staff**

- (1) Public service officers may be appointed under the *Public Sector Management Act 1994* Part 3 to enable the Authority to perform its functions.
- (2) The Authority may, subject to any relevant written law or any binding award, order or industrial agreement under the *Industrial Relations Act 1979*, employ or engage and manage

staff otherwise than under the *Public Sector Management Act 1994* Part 3.

- (3) This section does not detract from the power that the *Public Sector Management Act 1994* section 100 gives the employing authority of the Authority to engage a person under a contract for services or appoint a person on a casual employment basis.
- (4) The Authority may, by arrangement on such terms as are agreed with the relevant parties, make use of the services of a person employed by another person.

**111. Use of government staff and facilities**

- (1) The Authority may by arrangement with the relevant employing authority make use, either full-time or part-time, of the services of any officer or employee —
  - (a) in the Public Service; or
  - (b) in a State agency; or
  - (c) otherwise in the service of the State.
- (2) The Authority may by arrangement with —
  - (a) a department of the Public Service; or
  - (b) a State agency,make use of any facilities of the department or agency.
- (3) An arrangement under subsection (1) or (2) is to be made on terms agreed to by the parties.

**112. Committees**

- (1) The Authority may, in addition to LRCs, appoint other committees to assist it in the performance of its functions, and may discharge or alter any committee so appointed.
- (2) A committee may consist of or include persons who are not members of the Authority.

- (3) Members of a committee are entitled to be paid out of the funds of the Authority any remuneration and allowances that the Minister may from time to time determine on the recommendation of the Public Sector Commissioner.
- (4) Subject to the directions of the Authority and to the terms of any delegation under section 13 or 14, a committee may determine its own procedures.

## **Part 8 — Accountability and financial provisions**

### **Division 1 — Accountability**

#### **113. Business plans and operational plans**

- (1) In this section —  
*due date* means the date specified by the Treasurer under subsection (2) as the date before which the Authority must give the Minister a business plan or operational plan.
- (2) The Treasurer may, by written notice given to the Authority, specify the date before which the Authority must give the Minister its first business plan or operational plan under this section or a subsequent business plan or operational plan under this section.
- (3) Before each due date, the Authority must prepare and give the Minister a draft business plan or draft operational plan, as the case requires.
- (4) The regulations may make provision for and in relation to the following matters —
  - (a) the manner and form in which the Authority is to prepare, submit or revise a business plan or operational plan;
  - (b) the period a business plan or operational plan is to cover;
  - (c) the content of business plans and operational plans;
  - (d) how the Minister may deal with a business plan or operational plan received from the Authority.
- (5) Regulations referred to in subsection (4) are not to be made except with the prior written approval of the Treasurer.
- (6) If a regulation referred to in subsection (4) enables the Minister to give directions to the Authority, sections 115 and 116, with



any necessary changes, apply to any direction given under the regulation.

- (7) The Minister may —
- (a) approve a draft business plan or draft operational plan received from the Authority under this section; or
  - (b) refuse to approve the draft business plan or draft operational plan and require the Authority to prepare another or an amended draft plan.
- (8) When the Minister approves the draft business plan or draft operational plan, it becomes the Authority's business plan or operational plan until the next draft business plan or draft operational plan is approved under this section.
- (9) The Authority may, with the Minister's approval, change a plan approved by the Minister under this section.
- (10) The Minister must not give approval under subsection (7)(a) or (9) without the prior written approval of the Treasurer.

**114. Minister to be kept informed**

The Authority must —

- (a) keep the Minister reasonably informed of the operations, financial performance and financial position of the Authority, including the assets and liabilities, profits and losses and prospect of the Authority; and
- (b) give the Minister reports and information that the Minister requires for the making of informed assessments of matters referred to in paragraph (a); and
- (c) if matters arise that in the Authority's opinion may prevent, or significantly affect, achievement of the Authority's objectives and targets outlined in its business plan and its operational plan, promptly inform the Minister and the Treasurer of the matters and its opinion in relation to them.

**115. Minister may give directions**

- (1) The Minister may give written directions to the Authority with respect to the performance of its functions under this or any other Act, either generally or in relation to a particular matter, and the Authority must give effect to any such direction when it becomes effective under section 116.
- (2) The Minister must cause the text of any direction under subsection (1) to be laid before each House of Parliament or dealt with under section 132 —
  - (a) within 14 days after the direction is given; or
  - (b) if the direction is the subject of a notice under the *Statutory Corporations (Liability of Directors) Act 1996* section 17, within 14 days after it is confirmed under that section.
- (3) The text of a direction under subsection (1) must be included in the annual report submitted by the accountable authority of the Authority under the *Financial Management Act 2006* Part 5.

**116. When directions take effect**

- (1) Subject to this section a direction under section 115(1) becomes effective on the expiry of 7 days after the Authority receives it or of such longer period as the Minister may, at the request of the Authority's board of management, allow.
- (2) If the Authority's board of management asks the Minister to extend the 7 day period under subsection (1), the Minister must decide whether or not to agree to the request and notify the Authority of that decision before the 7 day period has expired.
- (3) If a direction is the subject of a notice under the *Statutory Corporations (Liability of Directors) Act 1996* section 17, it does not become effective before it is confirmed under that section or the expiry of an extension of time notified under subsection (4).

- (4) Despite the *Statutory Corporations (Liability of Directors) Act 1996* section 17(4), the Minister may, when confirming a direction under that section, extend the time for the direction to become effective and notify the Authority of the extension.

**117. Minister to have access to information**

- (1) In this section —  
*document* includes any tape, disk or other device or medium on which information is recorded or stored mechanically, photographically, electronically or otherwise;  
*information* means information specified, or of a description specified, by the Minister that relates to the functions of the Authority under this or any other Act.
- (2) The Minister is entitled —
- (a) to have information in the possession of the Authority; and
  - (b) if the information is in or on a document, to have, and make and retain copies of, that document.
- (3) For the purposes of subsection (2) the Minister may —
- (a) request the Authority to furnish information to the Minister;
  - (b) request the Authority to give the Minister access to information;
  - (c) for the purposes of paragraph (b) make use of the staff of the Authority to obtain the information and furnish it to the Minister.
- (4) The Authority must comply with a request under subsection (3) and make staff and facilities available to the Minister for obtaining information under subsection (3)(c).

**118. Protection for disclosure or compliance with directions**

- (1) The Authority or another person performing a function under this Act or any other Act is not liable —
  - (a) in respect of any claim arising as a consequence of the disclosure of information or documents under section 114, 117 or 123 or a duty imposed by the *Financial Management Act 2006* or the *Auditor General Act 2006*; or
  - (b) for the fact of having done or omitted a thing that is required to be done or omitted by a direction given under this Act.
- (2) Subsection (1) does not extend to the manner in which any thing is done or omitted if it is done or omitted contrary to the *Statutory Corporations (Liability of Directors) Act 1996* section 9 or 10.

**Division 2 — Financial provisions**

**119. Application of *Financial Management Act 2006* and *Auditor General Act 2006***

The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Authority and its operations.

**120. Metropolitan Redevelopment Authority Account**

- (1) An account called the Metropolitan Redevelopment Authority Account is to be established as an agency special purpose account under the *Financial Management Act 2006* section 16.
- (2) Money received by the Authority is to be credited to, and money paid by the Authority is to be debited to, the Account.

**121. Authority's funds**

- (1) Subject to subsection (2), the funds available for the purpose of enabling the Authority to perform its functions under this or any other Act consist of money that is, under this or any other Act, lawfully received by or made available to, the Authority.
- (2) Where any money has been accepted by the Authority upon trust or lawful condition, the Authority must apply the money in accordance with the trust or condition.

**122. Borrowing**

The Authority may, with the Treasurer's prior approval —

- (a) borrow or re-borrow money;
- (b) obtain credit;
- (c) otherwise arrange for financial accommodation to be extended to the Authority.

**123. Notice of financial difficulty**

- (1) The Authority's board of management must notify the Minister if it forms the opinion that the Authority is unable to, or will be unlikely to be able to, satisfy any of its financial obligations from the financial resources available or likely to be available to it at the time the financial obligation is due.
- (2) The notice must be in writing, giving reasons for the board's opinion.
- (3) Within 7 days of receipt of the notice, the Minister must —
  - (a) confer with the Treasurer and the Authority for the purpose of determining what action is required to ensure that the Authority is able to satisfy the relevant financial obligation when it is due; and
  - (b) initiate such action as is required to ensure that the Authority is able to satisfy the relevant financial obligation when it is due.

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- (4) For the purposes of subsection (3) the Minister may give the Authority a direction under section 115 requiring the Authority to cease or limit the performance of any function.

## **Part 9 — Miscellaneous**

### **124. Modification or suspension of other laws**

The PAD Act section 132 applies with all necessary modifications for the purposes of carrying out a redevelopment scheme as if any reference in that section —

- (a) to a planning scheme were a reference to a redevelopment scheme;
- (b) to the responsible authority were a reference to the Authority;
- (c) to an Act were a reference to a written law.

### **125. Execution of documents by Authority**

- (1) The Authority is to have a common seal.
- (2) A document is duly executed by the Authority if —
  - (a) the common seal of the Authority is affixed to it in accordance with subsections (3) and (4); or
  - (b) it is signed on behalf of the Authority by a person or persons authorised to do so under subsection (5).
- (3) The common seal of the Authority is not to be affixed to any document except as authorised by the Authority.
- (4) The common seal of the Authority is to be affixed to a document in the presence of the chairperson and another member of the Authority's board of management, or the chairperson and the chief executive officer, each of whom is to sign the document to attest that the common seal was so affixed.
- (5) The Authority may, by writing under its common seal, authorise —
  - (a) any member or members of the Authority's board of management; or

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(b) any other staff member or members,

to sign documents on behalf of the Authority, either generally or subject to conditions or restrictions specified in the authorisation.

- (6) A document purporting to be executed in accordance with this section is to be presumed to be duly executed unless the contrary intention is shown.
- (7) When a document is produced bearing a seal purporting to be the common seal of the Authority, it is to be presumed that the seal is the common seal of the Authority unless the contrary is shown.

**126. Contract formalities**

- (1) Insofar as the formalities of making, varying or discharging a contract are concerned, a person acting as authorised by the Authority may make, vary or discharge a contract in the name of or on behalf of the Authority in the same manner as if that contract were made, varied or discharged by a natural person.
- (2) The making, variation or discharge of a contract in accordance with subsection (1) is effectual in law and binds the Authority and other parties to the contract.
- (3) Subsection (1) does not prevent the Authority from making, varying or discharging the contract under its common seal.

**127. Confidential information officially obtained**

- (1) In this section —  
*confidential information* includes information that the person has a duty to keep confidential regardless of how the duty of confidentiality arises.
- (2) A person who, without lawful authority, directly or indirectly, records, uses, or discloses confidential information obtained by



reason of any function that the person has, or at any time had, in the administration of this Act commits an offence.

Penalty: a fine of \$12 000 or 12 months imprisonment.

**128. Protection from liability for wrongdoing**

- (1) An action in tort does not lie against a person other than the Authority for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act.
- (2) The protection given by subsection (1) applies even though the thing done as described in that subsection may have been capable of being done whether or not this Act had been enacted.
- (3) Despite subsection (1), neither the Authority nor the State is relieved of any liability that it might have for another person having done anything as described in that subsection.
- (4) In this section, a reference to the doing of anything includes a reference to the omission to do anything.
- (5) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.

[129. Deleted: No. 9 of 2023 s. 104.]

**130. Approved forms**

- (1) The chief executive officer may approve forms for use under this Act.
- (2) An approved form may require information provided in the form to be verified by statutory declaration.

**131. Regulations**

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are

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necessary or convenient to be prescribed, for giving effect to the purposes of this Act.

- (2) Without limiting subsection (1), regulations may provide for any or all of the following —
- (a) procedures in relation to development applications;
  - (b) the amendment and cancellation of development approvals or approvals under section 60;
  - (c) the making of statutory declarations in relation to a matter;
  - (d) that an application may be made to the State Administrative Tribunal for the review of a decision made under the regulations;
  - (e) the imposition, collection and recovery of fees and charges for the purposes of this Act, including in respect of —
    - (i) development applications; and
    - (ii) other matters to which a redevelopment scheme relates;
  - (f) that contravention of a regulation is an offence, and, for an offence against the regulations, a penalty not exceeding a fine of \$5 000.
- (3) A fee or charge imposed under subsection (2)(e) —
- (a) may be a specified amount or an amount calculated in a specified manner; and
  - (b) for an application for approval of development that has commenced or been carried out, may include an amount prescribed by way of penalty.

**132. Laying documents before House of Parliament not sitting**

- (1) If a provision of this Act requires the Minister to cause a document to be laid before each House of Parliament, or be dealt with under this section, within a period and —
  - (a) when the Minister is ready to act, a House of Parliament is not sitting; and
  - (b) the Minister is of the opinion that the House will not sit during that period,

the Minister must transmit a copy of the document to the Clerk of that House.

- (2) A copy of a document transmitted to the Clerk of a House is to be regarded as having been laid before that House.
- (3) The laying of a copy of a document that is regarded as having occurred under subsection (2) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk received the copy.

**133. Review of Act**

- (1) The Minister must carry out a review of the operation and effectiveness of this Act as soon as is practicable after the fifth anniversary of the commencement of this section.
- (2) In the course of the review the Minister must consider and have regard to —
  - (a) the need for the continuation of this Act; and
  - (b) any other matters that appear to the Minister to be relevant to the operation and effectiveness of this Act.
- (3) The Minister must prepare a report based on that review and, as soon as is practicable after the report is prepared, cause it to be laid before each House of Parliament or dealt with under section 132.

## **Part 10 — Repeals, consequential amendments and validations**

### **Division 1 — Repeals**

#### **134. Acts repealed**

These Acts are repealed:

- (a) the *Armadale Redevelopment Act 2001*;
- (b) the *East Perth Redevelopment Act 1991*;
- (c) the *Midland Redevelopment Act 1999*;
- (d) the *Subiaco Redevelopment Act 1994*.

### **Division 2 — Consequential amendments**

#### **135. *Approvals and Related Reforms (No. 4) (Planning) Act 2010* amended**

- (1) This section amends the *Approvals and Related Reforms (No. 4) (Planning) Act 2010*.
- (2) In section 56 delete the passage that begins with “(4)” and ends with “section 268A.”.

#### **136. *Constitution Acts Amendment Act 1899* amended**

- (1) This section amends the *Constitution Acts Amendment Act 1899*.
- (2) In Schedule V Part 3 delete the items for:

The board of management of the Armadale Redevelopment Authority established by the *Armadale Redevelopment Act 2001*.

The East Perth Redevelopment Authority established by the *East Perth Redevelopment Act 1991*.

The Midland Redevelopment Authority established by the *Midland Redevelopment Act 1999*.

The Subiaco Redevelopment Authority established by the *Subiaco Redevelopment Act 1994*.

- (3) In Schedule V Part 3 before the item for The Mines Occupational Safety and Health Advisory Board insert:

The board of management of the Metropolitan Redevelopment Authority established under the *Metropolitan Redevelopment Authority Act 2011*.

Any land redevelopment committee established under the *Metropolitan Redevelopment Authority Act 2011*.

**137. *Environmental Protection Act 1986* amended**

- (1) This section amends the *Environmental Protection Act 1986*.
- (2) In section 3(1) delete the definition of ***scheme Act*** and insert:

***scheme Act*** means any of the following Acts —

- (a) the *Planning and Development Act 2005*;
  - (b) the *Metropolitan Redevelopment Authority Act 2011*;
  - (c) the *Hope Valley-Wattleup Redevelopment Act 2000*;
- (3) In section 3(1) in the definition of ***final approval***:
- (a) delete paragraphs (a), (aa), (ac) and (b);
  - (b) after paragraph (f) insert:

or

- (g) prepared under the *Metropolitan Redevelopment Authority Act 2011*, means an approval given under section 47 of that Act, or under section 49 of that Act as read with that section;

(4) In section 3(1) in the definition of *period of public review*:

- (a) delete paragraphs (a), (aa), (ac) and (b);
- (b) after paragraph (f) insert:

or

- (g) prepared under the *Metropolitan Redevelopment Authority Act 2011*, means the period set and notified under section 43 of that Act, or under section 49 of that Act as read with that section;

(5) In section 3(1) in the definition of *responsible authority* paragraph (a):

- (a) delete subparagraphs (i), (ii), (iv) and (v);
- (b) after subparagraph (ix) insert:

or

- (x) prepared under the *Metropolitan Redevelopment Authority Act 2011*, means the Metropolitan Redevelopment Authority established by that Act;

(6) In section 3(1) in the definition of *scheme*:

- (a) delete paragraphs (a), (b), (d) and (e);
- (b) after paragraph (i) insert:

or

- (j) a redevelopment scheme prepared under the *Metropolitan Redevelopment Authority Act 2011* or an amendment to such a scheme;

- (7) In section 48C(7) in the definition of *public review*:
- (a) delete paragraphs (a), (aa), (ac) and (b);
  - (b) in paragraph (f) delete “Act.” and insert:  
  
Act; or
  - (c) after paragraph (f) insert:  
  
    - (g) prepared under the *Metropolitan Redevelopment Authority Act 2011*, means a procedure referred to in sections 43 and 44 of that Act, or in section 49 of that Act as read with those sections.

**138. *Financial Management Act 2006* amended**

- (1) This section amends the *Financial Management Act 2006*.
- (2) In Schedule 1 delete the items for:  
Armadale Redevelopment Authority  
East Perth Redevelopment Authority  
Midland Redevelopment Authority  
Subiaco Redevelopment Authority
- (3) In Schedule 1 insert in alphabetical order:  
  
Metropolitan Redevelopment Authority

**139. *Government Railways Act 1904* amended**

- (1) This section amends the *Government Railways Act 1904*.

(2) Delete section 63A(5) and insert:

(5) In subsection (2) —

***Subiaco redevelopment area*** means any land that —

- (a) immediately before the coming into operation of the *Metropolitan Redevelopment Authority Act 2011* section 134(d), was in the area referred to in the *Subiaco Redevelopment Act 1994* Schedule 1; and
- (b) on the repeal of the *Subiaco Redevelopment Act 1994*, was declared to be or to be part of, or added to, a redevelopment area under regulations referred to in the *Metropolitan Redevelopment Authority Act 2011* section 153.

**140. *Land Tax Assessment Act 2002* amended**

- (1) This section amends the *Land Tax Assessment Act 2002*.
- (2) In section 28(2)(a) delete “the *East Perth Redevelopment Act 1991*,” and insert:

the *Metropolitan Redevelopment Authority Act 2011*,

**141. *Planning and Development Act 2005* amended**

- (1) This section amends the *Planning and Development Act 2005*.
- (2) Delete section 16(6) and insert:
  - (6) Except as provided in subsection (7A), a delegate must not further delegate any function.



(3) After section 16(6) insert:

- (7A) If the Commission delegates a function of the Commission to the Metropolitan Redevelopment Authority established under the *Metropolitan Redevelopment Authority Act 2011*, the Authority may subdelegate the exercise or performance of the function to any land redevelopment committee established under that Act.
- (7B) A subdelegation under subsection (7A) takes effect when notice of the subdelegation is published in the *Gazette*.
- (7C) Subsections (4), (5) and (7) and the *Interpretation Act 1984* sections 58 and 59 apply to a subdelegation of a function under this section in the same way as they apply to a delegation of a function.
- (7D) A subdelegate must not further delegate any function subdelegated under subsection (7A).

(4) Delete section 36(c) and insert:

- (c) except as provided in the *Metropolitan Redevelopment Authority Act 2011* section 58 and without limiting section 51 of that Act, to make any provision in respect of any land to which an approved redevelopment scheme that is in operation under that Act applies; or

- (5) Delete section 71 and insert:

**71. Local planning schemes not to apply to redevelopment areas**

A local planning scheme must not be made or amended under this Act —

- (a) except as provided in the *Metropolitan Redevelopment Authority Act 2011* sections 57 and 58 and without limiting section 51 of that Act, to make any provision in respect of any land to which an approved redevelopment scheme that is in operation under that Act applies; or
- (b) without limiting the *Hope Valley-Wattleup Redevelopment Act 2000* section 23, to make any provision in respect of land in the redevelopment area as defined in that Act.

- (6) After section 76(3) insert:

- (4) The Minister must ensure that written reasons for making an order under subsection (1) are provided with the order.
- (5) The Minister must, as soon as is practicable after an order is given to the local government under subsection (1), cause to be laid before each House of Parliament or dealt with under section 268A —
  - (a) a copy of the order; and
  - (b) a copy of the reasons for making the order.

- (7) Delete section 112(2)(a) and insert:
- (a) land to which an approved redevelopment scheme under the *Metropolitan Redevelopment Authority Act 2011* applies; or
- (8) Delete section 119(3A)(a) and insert:
- (a) land to which an approved redevelopment scheme under the *Metropolitan Redevelopment Authority Act 2011* applies; or
- (9) Delete section 199(2) and insert:
- (2) The Commission is also authorised to apply money standing to the credit of the MRI Account to payment of expenditure required for the purpose of carrying out the *Metropolitan Redevelopment Authority Act 2011* or the *Hope Valley-Wattleup Redevelopment Act 2000*.
- (10) Delete section 262(5) and insert:
- (5) In subsection (4) a reference to a planning scheme includes a reference to —
    - (a) an approved redevelopment scheme as defined in the *Metropolitan Redevelopment Authority Act 2011* section 3; and
    - (b) a master plan approved under the *Hope Valley-Wattleup Redevelopment Act 2000*.

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- (11) In section 268A(1) delete “section 77A(4) or (5), 119(5A) or 246(4)” and insert:

a provision of this Act

**142. Public Sector Management Act 1994 amended**

- (1) This section amends the *Public Sector Management Act 1994*.  
(2) In Schedule 2 delete items 9, 28B and 47B.  
(3) After Schedule 2 item 27 insert:

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**143. Statutory Corporations (Liability of Directors) Act 1996 amended**

- (1) This section amends the *Statutory Corporations (Liability of Directors) Act 1996*.  
(2) In Schedule 1 delete the items for:  
Armadale Redevelopment Authority  
East Perth Redevelopment Authority  
Midland Redevelopment Authority  
Subiaco Redevelopment Authority  
(3) In Schedule 1 insert in alphabetical order:

Metropolitan Redevelopment Authority	a member of the board of management of the Authority	<i>Metropolitan Redevelopment Authority Act 2011</i>
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**144. *Swan and Canning Rivers Management Act 2006* amended**

- (1) This section amends the *Swan and Canning Rivers Management Act 2006*.
- (2) In section 3(1) delete the definition of ***redevelopment authority***.
- (3) In section 3(1) insert in alphabetical order:

***Metropolitan Redevelopment Authority*** means the body established by the *Metropolitan Redevelopment Authority Act 2011* section 4;

- (4) In section 3(1):
  - (a) in the definition of ***development*** after paragraph (a) insert:  
  
and
  - (b) in the definition of ***officer of the Trust*** after paragraph (a) insert:  
  
or
  - (c) in the definition of ***owner*** after paragraph (b)(i) insert:  
  
and
  - (d) in the definition of ***public authority*** after paragraph (a) insert:  
  
or

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(e) in the definition of *strategic document* after paragraph (a) insert:

or

(5) In section 22(1):

(a) delete “government, or a redevelopment authority, referred to in Schedule 7” and insert:

government referred to in Schedule 7 or the Metropolitan Redevelopment Authority,

(b) delete “or redevelopment authority.” and insert:

or the Metropolitan Redevelopment Authority.

(6) Delete section 22(3) and insert:

(3) A relevant matter for the Metropolitan Redevelopment Authority is one that relates to a development or proposed development that is in a redevelopment area as defined in the *Metropolitan Redevelopment Authority Act 2011* section 3.

(7) In section 22(4) delete “a redevelopment authority” and insert:

the Metropolitan Redevelopment Authority

(8) In section 22(5) delete “a redevelopment authority” and insert:

the Metropolitan Redevelopment Authority

- (9) In section 22(6) delete “redevelopment authority” (each occurrence) and insert:

Metropolitan Redevelopment Authority

- (10) In section 26(1):
- (a) delete “government, or a redevelopment authority, referred to in Schedule 7” and insert:

government referred to in Schedule 7 or the  
Metropolitan Redevelopment Authority,

- (b) delete “or redevelopment authority.” and insert:

or the Metropolitan Redevelopment Authority.

- (11) Delete section 26(2) and insert:

- (2) If a proposal is referred to it, the Metropolitan Redevelopment Authority or a local government may make submissions to the Trust on the proposal.

- (12) In section 26(4) delete “redevelopment authority” and insert:

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- (13) In section 72(1) delete “subsection (2) or (3).” and insert:

subsection (2).

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(14) Delete section 72(2) and (3) and insert:

(2) If —

(a) a development is proposed to be carried out on land that is within a redevelopment area as defined in the *Metropolitan Redevelopment Authority Act 2011* section 3; and

(b) a redevelopment scheme that is in operation under that Act applies to the land,

an application for development approval must be made to the Metropolitan Redevelopment Authority.

(15) In section 72(4) delete “subsection (1), (2) or (3),” and insert:

subsection (1) or (2),

(16) In section 72(6) delete “subsection (1), (2) or (3)” and insert:

subsection (1) or (2)

(17) In Schedule 5 item 1:

(a) delete paragraphs (a) and (d);

(b) delete paragraph (q) insert:

(q) the *Metropolitan Redevelopment Authority Act 2011*;

(c) delete paragraph (aa).



- (18) Delete Schedule 5 items 2, 5, 10 and 13.
- (19) In Schedule 7:
- (a) in the heading delete “**and redevelopment authorities**”;
  - (b) delete the heading “**Local governments**”;
  - (c) delete the heading “**Redevelopment authorities**”;
  - (d) delete the items for:
    - East Perth Redevelopment Authority
    - Midland Redevelopment Authority

### **Division 3 — Validations**

#### **145. Effect of redevelopment schemes and validity of things done under them**

- (1) In this section —

*commencement day* means the day on which this section comes into operation;

*redevelopment Act* means any of the following Acts —

- (a) the *Armadale Redevelopment Act 2001*;
- (b) the *East Perth Redevelopment Act 1991*;
- (c) the *Midland Redevelopment Act 1999*;
- (d) the *Subiaco Redevelopment Act 1994*;

*redevelopment scheme* means a redevelopment scheme, as amended from time to time, approved under a redevelopment Act.

- (2) Any redevelopment scheme is taken to have had legislative effect from and including the day it came into operation.
- (3) Any act done or omission made pursuant to a redevelopment scheme before the day on which this section comes into operation has, and is taken to always have had, the same validity

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as it would have had if subsection (2) had been in operation at the time of the act or omission.

## Part 11 — Transitional provisions

### 146. Terms used

In this Part —

**abolished authority**, in relation to a redevelopment Act, means the redevelopment authority that is abolished when the redevelopment Act is repealed under section 134;

**assets** means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents;

**liabilities** means liabilities, debts and obligations (whether present or future and whether vested or contingent);

**redevelopment Act** means any of the following Acts —

- (a) the *Armadale Redevelopment Act 2001*;
- (b) the *East Perth Redevelopment Act 1991*;
- (c) the *Midland Redevelopment Act 1999*;
- (d) the *Subiaco Redevelopment Act 1994*;

**redevelopment authority** means a redevelopment authority established under a redevelopment Act.

### 147. Interpretation Act 1984 not affected

Except where the contrary intention appears, this Part does not prejudice or affect the application of the *Interpretation Act 1984* Part V.

### 148. Assets, rights and liabilities

- (1) On the day on which a redevelopment Act is repealed —
  - (a) all assets and rights of the abolished authority immediately before that day become assets and rights of the Authority by force of this section; and

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- (b) all liabilities of the abolished authority immediately before that day become, by force of this section, liabilities of the Authority.
- (2) Any account maintained under a redevelopment Act must, after the redevelopment Act is repealed, be closed by the chief executive officer and the moneys in the account credited to the Metropolitan Redevelopment Authority Account.
- (3) On and after the day on which a redevelopment Act is repealed, any proceedings that immediately before that day might have been brought or continued by the abolished authority may be brought or continued by the Authority.
- (4) On and after the day on which a redevelopment Act is repealed, any remedy that immediately before that day is available against or to the abolished authority is available against or to the Authority.

**149. Agreements and instruments generally**

- (1) Any agreement or instrument subsisting immediately before the day on which a redevelopment Act is repealed —
  - (a) to which the abolished authority is a party; or
  - (b) which contains a reference to the abolished authority,has effect on and after that day as if —
  - (c) the Authority were substituted for the abolished authority as a party to the agreement or instrument; and
  - (d) any reference in the agreement or instrument to the abolished authority were (unless the context otherwise requires) amended to be or include a reference to the Authority.
- (2) Subsection (1) does not apply to a contract to which section 152 applies.

**150. References in written laws to abolished authorities**

- (1) A reference however expressed in a written law to an abolished authority may be read as including a reference to the Authority unless in the context it would be inappropriate to do so.
- (2) Subsection (1) does not apply to anything for which this Act has made other provision.

**151. Employed staff**

- (1) In this section —  
*Armadale Redevelopment Authority* means the body established under the *Armadale Redevelopment Act 2001* section 6(1);  
*existing employee* means a person referred to in subsection (3);  
*Midland Redevelopment Authority* means the body established under the *Midland Redevelopment Act 1999* section 6(1).
- (2) If, immediately before the coming into operation of this subsection —
  - (a) a person was employed under a contract of service with a redevelopment authority or other statutory authority to perform duties relating exclusively to the provision of services for a redevelopment authority; and
  - (b) under its terms, the contract expires on a day that is on or after 31 December 2011 and on or before 30 June 2012,unless earlier lawfully terminated by either party to the contract, the contract is to be taken to expire 6 months after the coming into operation of section 134.
- (3) On the coming into operation of section 134 —
  - (a) any person who immediately before the coming into operation of that section was employed under a contract of service with a statutory authority to perform duties relating exclusively to the provision of services to the

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Armadale Redevelopment Authority becomes a staff member of the Authority and is to be taken to have been employed under the contract of service under section 110(2); and

- (b) any person who immediately before the coming into operation of that section was an officer appointed under the *East Perth Redevelopment Act 1991* section 15 becomes a staff member of the Authority and is to be taken to have been employed under a contract of service under section 110(2); and
  - (c) any person who immediately before the coming into operation of that section was a public service officer under the *Public Sector Management Act 1994* seconded to perform services for the Midland Redevelopment Authority becomes a staff member of the Authority and is to be taken to have been appointed for the purposes of section 110(1).
- (4) Except as otherwise agreed by an existing employee, the operation of subsection (3) does not —
- (a) affect the employee's pay, within the meaning of that term in the *Public Sector Management (Redeployment and Redundancy) Regulations 1994* regulation 3(1); or
  - (b) affect the employee's other conditions of service; or
  - (c) affect the employee's existing or accruing rights in respect of annual leave, long service leave, sick leave or any other leave, which are enforceable against the State; or
  - (d) affect any rights under a superannuation scheme; or
  - (e) interrupt the continuity of the employee's service.

**152. People engaged under contracts for services**

- (1) This section applies if —

- (a) a person is engaged by a redevelopment authority or its employing authority under a contract for services, whether under a redevelopment Act or the *Public Sector Management Act 1994* section 100; and
  - (b) the contract is in force immediately before the redevelopment Act is repealed; and
  - (c) the contract, under its terms, does not terminate on the repeal.
- (2) On the repeal —
- (a) the person is taken to be engaged by the Authority under the contract for services; and
  - (b) the contract is to be read as if the Authority were substituted for the abolished authority.

**153. Transfer of land in abolished redevelopment area to redevelopment area under this Act**

- (1) If, immediately before the repeal of a redevelopment Act —
- (a) there remains any land in a redevelopment area established under the redevelopment Act; and
  - (b) a redevelopment scheme in operation under the redevelopment Act applies to the land,

on the repeal the remaining land may be declared to be or to be part of, or added to, a redevelopment area by regulations made under section 30.

- (2) Section 29(2) does not apply in relation to regulations made for the purposes of subsection (1).

**154. Redevelopment scheme continues for land in abolished redevelopment area that is transferred to redevelopment area under this Act**

- (1) This section applies if, on the repeal of a redevelopment Act, land is declared to be or to be part of, or is added to, a

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redevelopment area by regulations made for the purposes of section 153(1).

- (2) On the repeal —
  - (a) the redevelopment scheme that was in operation under the repealed Act has effect as if it were a redevelopment scheme in operation under Part 5; and
  - (b) this Act applies to and in respect of the scheme accordingly.
- (3) In subsection (2) —

*redevelopment scheme* includes any instruments made under the redevelopment scheme.
- (4) If, on the repeal, an application for approval of development of land or any part of it made under the repealed Act —
  - (a) has not been decided under that Act; or
  - (b) having been so decided, is the subject of an application to the State Administrative Tribunal for a review that has not been finalised,

the Authority must perform the functions of the abolished authority in relation to those applications.

**155. Exemptions from State tax**

- (1) In this section —

*State tax* includes duty under the *Duties Act 2008* and any other tax, duty, fee, levy or charge, under a law of the State.
- (2) State tax is not payable in relation to —
  - (a) anything that occurs by operation of this Part; or
  - (b) anything done (including a transaction entered into or an instrument or document of any kind made, executed, lodged or given) under this Part, or to give effect to this Part, or for a purpose connected with or arising out of, giving effect to this Part.



**156. Transitional regulations**

- (1) If this Part does not provide sufficiently for a matter or issue of a transitional nature that arises as a result of a repeal or amendment made under Part 10 or the enactment of this Act, the Governor may make regulations (the *transitional regulations*) prescribing all matters that are required, necessary or convenient to be prescribed for providing for the matter or issue.
- (2) The transitional regulations may provide that specified provisions of this Act —
  - (a) do not apply; or
  - (b) apply with specified modifications,to or in relation to any matter.
- (3) If the transitional regulations provide that a specified state of affair is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the transitional regulations are published in the *Gazette* but not earlier than the commencement of this section, the transitional regulations have effect according to their terms.
- (4) In subsections (2) and (3) —  
*specified* means specified or described in the transitional regulations.
- (5) If the transitional regulations contain a provision referred to in subsection (3), the provision does not operate so as —
  - (a) to affect in a manner prejudicial to any person (other than the State), the rights of that person existing before the day of publication of those regulations; or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication of those regulations.

## Notes

This is a compilation of the *Metropolitan Redevelopment Authority Act 2011* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table. [For provisions that have not yet come into operation see the uncommenced provisions table.](#)

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Metropolitan Redevelopment Authority Act 2011</i>	45 of 2011	12 Oct 2011	s. 1 and 2: 12 Oct 2011 (see s. 2(a)); s. 3, 29, 30, 36 and 132: 7 Nov 2011 (see s. 2(b) and <i>Gazette</i> 4 Nov 2011 p. 4629) Act other than s. 1-3, 29, 30, 36 and 132: 31 Dec 2011 (see s. 2(b) and <i>Gazette</i> 30 Dec 2011 p. 5573)
<i>Swan Valley Planning Act 2020</i> Pt. 10 Div. 9	45 of 2020	9 Dec 2020	1 Aug 2021 (see s. 2(1)(e) and SL 2021/124 cl. 2)
<i>Directors' Liability Reform Act 2023</i> Pt. 3 Div. 40	9 of 2023	4 Apr 2023	5 Apr 2023 (see s. 2(j))

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## **Uncommenced provisions table**

To view the text of the uncommenced provisions see [Acts as passed on the WA Legislation website](#).

<b><u>Short title</u></b>	<b><u>Number and year</u></b>	<b><u>Assent</u></b>	<b><u>Commencement</u></b>
<a href="#">Planning and Development Amendment Act 2023 Pt. 8 Div. 4</a>	<a href="#">34 of 2023</a>	<a href="#">11 Dec 2023</a>	<a href="#">1 Jul 2024 (see s. 2(e) and SL 2024/98 cl. 2)</a>

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