

Western Australia

Armadale Redevelopment Act 2001

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Armadale Redevelopment Act 2001

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Western Australia

Armadale Redevelopment Act 2001

An Act to provide for the development and redevelopment of certain land in Armadale, to establish the Armadale Redevelopment Authority with planning, development control, economic and social development and other functions, and for related purposes.

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Armadale Redevelopment Act 2001*¹.

2. Commencement

- (1) This Act comes into operation on a day fixed by proclamation¹.
- (2) Different days may be fixed under subsection (1) for different provisions.

3. Interpretation

In this Act, unless the contrary intention appears —

“**Account**” means the Armadale Redevelopment Authority Account referred to in section 55;

“**acquire**” includes take on lease;

“**alternate member**” means a person appointed under clause 4(1) of Schedule 2;

“**Armadale**” means the local government district of Armadale;

“**Authority**” means the Armadale Redevelopment Authority;

“**board**” means the board of management provided for in section 7;

“**chairperson**” means the chairperson of the board;

“**committee**” means a committee established under clause 9 of Schedule 2;

“**deputy chairperson**” means the deputy chairperson of the board;

“**development**” has the same meaning as it has in the Town Planning Act, but does not include any work, act or activity declared by regulations made under section 68 not to constitute development;

“dispose of” includes sell, lease, let, grant a licence and grant any easement or right of way;

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

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

“interest in land” includes an easement, right or power affecting land;

“land” includes a legal or equitable estate or interest in land;

“member” means a member of the board and except in clauses 1, 2 and 4 of Schedule 2, includes an alternate member and a member of a committee;

“Metropolitan Region Scheme” has the same meaning as it has in the Metropolitan Scheme Act;

“Metropolitan Scheme Act” means the *Metropolitan Region Town Planning Scheme Act 1959*;

“Minister for the Environment” means the Minister to whom the Governor has for the time being committed the administration of the EP Act;

“Planning Commission” means the Western Australian Planning Commission established by section 4 of the *Western Australian Planning Commission Act 1985*;

“PSM Act” means the *Public Sector Management Act 1994*;

“public authority” means a Minister of the Crown in right of the State, Government department, State trading concern, State instrumentality, State public utility and any other person or body, whether corporate or not, who or which, under the authority of any written law, administers or carries on for the benefit of the State a social service or public utility;

“redevelopment area” has the meaning given in section 4(1);

“redevelopment scheme” means a redevelopment scheme in force under Part 4;

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“staff member” means an officer or employee referred to in section 11(1) or a person engaged under section 12;

“Town Planning Act” means the *Town Planning and Development Act 1928*.

4. Redevelopment area defined

- (1) For the purposes of this Act the redevelopment area is the land described in Schedule 1.
- (2) Regulations may be made under section 68 amending Schedule 1 —
 - (a) by adding to the redevelopment area any land that is in Armadale or by subtracting any land from the redevelopment area; or
 - (b) by deleting the redevelopment area and substituting another area for it,

but before any such regulations are made the Minister must consult with the council of the City of Armadale.

- (3) When regulations referred to in subsection (2) that add land to the redevelopment area are laid before each House of Parliament under section 42 of the *Interpretation Act 1984*, they must be accompanied by an explanatory memorandum showing how and why it is intended to amend the redevelopment area in respect of the land that is added.
- (4) Regulations referred to in subsection (2) may provide for the substitution of a plan for a plan referred to in Schedule 1, or for the amendment of the redevelopment area by reference to any supplementary plan.
- (5) In any proceedings, a plan purporting to be a copy of a plan referred to in Schedule 1 or subsection (4) showing the boundaries or any boundary of the redevelopment area is evidence of those boundaries or that boundary.

5. Transitional provisions where area amended

- (1) A redevelopment scheme does not extend to any area that becomes part of the redevelopment area under section 4(2) except by virtue of an amendment to the scheme under section 35.
- (2) On and after the day on which an area that is added to the redevelopment area under section 4(2) becomes subject to the redevelopment scheme, the planning schemes (as defined in section 43(1)) are repealed in relation to that area.
- (3) If land is subtracted from the redevelopment area under section 4(2)(a), the redevelopment scheme ceases to apply to that land.
- (4) Regulations referred to in section 4(2) may make further provisions of a transitional nature that are expedient to be made in respect of an amendment to Schedule 1 under that subsection including provision —
 - (a) empowering the Minister, if land is subtracted from the redevelopment area, to amend the Metropolitan Region Scheme or a relevant town planning scheme to provide for —
 - (i) the subtracted land to be included in the area to which any such scheme applies; and
 - (ii) the land to have a reservation or zoning under those schemes the same as, or similar to, that which applied to it under the redevelopment scheme in force immediately before it was subtracted;
 - and
 - (b) for the saving of rights existing at the time of the amendment, but subject to any provision of the redevelopment scheme relating to non-conforming uses.

Part 2 — Armadale Redevelopment Authority

Division 1 — Establishment of Authority

6. Authority established

- (1) A body called the Armadale 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.
- (4) The Authority may use, and operate under, one or more trading names approved by the Minister.
- (5) A trading name can be —
 - (a) an abbreviation or adaptation of the Authority's corporate name; or
 - (b) a name other than the Authority's corporate name.
- (6) The Authority is an agent of the Crown in right of the State and, except as provided in section 13, enjoys the status, immunities and privileges of the Crown.

7. Board of management

- (1) In this section —

“relevant qualification” means knowledge of, and experience in, one or more of the fields of urban planning, heritage, business management, property development, financial management, engineering, transport, housing and community affairs.
- (2) The Authority is to have a board of management comprising 6 persons appointed in writing by the Minister of whom —
 - (a) 4 are to be persons who, in the opinion of the Minister, have a relevant qualification; and

(b) 2 are to be members of the council of the City of Armadale nominated by that council.

- (3) As far as is practicable, the membership of the board is to comprise persons who between them have knowledge or experience covering all the fields mentioned in subsection (1).
- (4) The board 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.

8. Chairperson and deputy chairperson

- (1) The Minister is to appoint a member of the board appointed under section 7(2)(a) to be the chairperson of the Authority.
- (2) The Minister is to appoint another member of the board to be the deputy chairperson of the Authority.

9. Constitution and proceedings

Schedule 2 has effect with respect to the board and its members.

10. Remuneration and expenses of members

A member is to be paid the remuneration and travelling and other allowances that are determined in his or her case by the Minister on the recommendation of the Minister for Public Sector Management.

Division 2 — Staff and facilities

11. Use of government staff and facilities

- (1) The Authority may by arrangement with the relevant employer make use, either full-time or part-time, of the services of any officer or employee —
- (a) in the department of the Public Service principally assisting the Minister in the administration of this Act;
or

- (b) in an agency or instrumentality established or constituted by or under any other Act administered by the Minister.
- (2) The Authority may by arrangement with —
 - (a) the department referred to in subsection (1); or
 - (b) an agency or instrumentality referred to in that subsection,make use of any facilities of the department, agency or instrumentality.
- (3) The Authority must not enter into an arrangement under subsection (1) or (2) without the prior approval of the Minister.
- (4) An arrangement under subsection (1) or (2) is to be made on such terms as are agreed to by the parties.

12. Consultants

The Authority may engage persons under contracts for services to provide such professional, technical or other assistance as it considers necessary for the performance of its functions under this Act.

Part 3 — Functions and powers

13. Compliance with written laws

Subject to sections 14 and 17(8), nothing in this Act is to be read as conferring on the Authority in the performance of its functions any immunity from the operation of any written law.

14. Authority exempt from rates, taxes, etc.

- (1) Subject to subsection (2), the Authority is not liable to pay any local government rate or charge, land tax, metropolitan region improvement tax, water rate, pay-roll tax, stamp duty or other rate, tax, duty, fee or charge imposed by or under a written law.
- (2) Subsection (1) does not apply to the liability to pay any rate, charge, tax, duty or fee in respect of land held under a lease or tenancy agreement from the Authority.

15. Planning and development control

It is a function of the Authority —

- (a) to plan, undertake, promote and coordinate the development and redevelopment of land in the redevelopment area; and
- (b) for that purpose —
 - (i) under Part 4, to prepare and keep under review a redevelopment scheme for that area; and
 - (ii) under Part 5, to control developments in that area.

16. Economic and social development

It is a function of the Authority —

- (a) to identify opportunities for investment in Armadale and to encourage that investment;
- (b) to identify opportunities for the provision of facilities and programmes to support and enhance community life

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- in Armadale, and to encourage the provision of those facilities and programmes;
- (c) to facilitate and encourage the provision of diversified employment opportunities in Armadale;
 - (d) to identify infrastructure services necessary to promote economic and social development in Armadale, and to encourage the provision of those services;
 - (e) to facilitate coordination between relevant statutory bodies and State government agencies for the purpose of promoting economic and social development in Armadale;
 - (f) to provide information and advice for the purpose of promoting economic and social development in Armadale; and
 - (g) generally to take steps to encourage, promote, facilitate and monitor economic and social development in Armadale.

17. Powers

- (1) The Authority has all the powers it needs to perform its functions.
 - (2) Without limiting subsection (1), the Authority may —
 - (a) subject to subsection (3), for the purposes of its functions under section 15, acquire, hold, manage and dispose of land;
 - (b) for the purposes of its functions under section 15, subdivide, amalgamate, improve, develop and alter land;
 - (c) subject to section 18(1) —
 - (i) participate in any business arrangement; or
 - (ii) acquire, hold and dispose of shares, units or other interests in any business arrangement;
- and

- (d) subject to subsection (4), enter into any contract or arrangement with a person, including a public authority or a local government, for the performance by that person or body of any work or the supply of equipment or services.
- (3) If the value of land to be acquired or disposed of by the Authority under subsection (2)(a), in the opinion of the Authority, exceeds \$1 000 000, the Authority may acquire or dispose of the land only with the approval of the Minister and subject to any conditions attached to the approval.
- (4) If the amount to be paid or received by the Authority under a contract or arrangement under subsection (2)(d) exceeds \$1 000 000, the Authority may enter into the contract or arrangement only with the approval of the Minister and subject to any conditions attached to the approval.
- (5) In performing its functions the Authority may act alone or in conjunction with any person or any department of the Public Service, or other agency or instrumentality, of the State or the Commonwealth.
- (6) In performing its functions the Authority must have regard to, and must seek to enhance and preserve, the cultural heritage significance of the redevelopment area.
- (7) Despite anything in this section or in section 20, the Authority may pay for the carrying out of any work on land in Armadale that is outside the redevelopment area if the work is, in its opinion, directly related to the improvement of the redevelopment area or to the functions of the Authority.
- (8) In exercising any power under this section the Authority is not required to comply with section 20 of the Town Planning Act but —
 - (a) anything that would otherwise require the approval of the Planning Commission under that section may be

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- done with the approval of the Minister and subject to any conditions attached to the approval;
- (b) before the Minister makes any decision required by paragraph (a) he or she must seek the advice of the Planning Commission and consider any advice offered; and
 - (c) if this section applies, section 21 of the Town Planning Act is to be read as if references to the Commission were references to the Minister.
- (9) In subsection (2)(c) —
- “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 any of those things.

18. Further restrictions on exercise of power

- (1) Any power conferred by section 17(2)(c) is only exercisable with the approval of the Governor and subject to any conditions attached to the approval.
- (2) When the Minister gives any approval under section 17, other than under section 17(8)(a), or the Governor gives any approval under subsection (1), the text of that approval must be laid before each House of Parliament within 28 sitting days of that House after the day on which the approval is given.
- (3) The annual report submitted by the accountable authority of the Authority under section 66 of the *Financial Administration and Audit Act 1985* must include a summary of any approval referred to in subsection (2).

19. Conditional disposal of land

- (1) In this section —
 “Registrar” means the Registrar of Titles.
- (2) The Authority may attach any condition or restriction to a disposal of land under section 17(2)(a).
- (3) Without limiting subsection (2), the Authority and a transferee may agree that the transferee —
- (a) is required to make specified improvements to land; or
 - (b) is subject to restrictions on the disposal of or dealing with the land,

and the agreement may confer on the Authority rights and remedies against, and the power to impose sanctions on, the transferee in relation to the enforcement of any such condition or restriction.

- (4) The Authority may deliver a memorial relating to a condition or restriction under this section to the Registrar who, on payment of the appropriate fee, must register the memorial against the relevant land.
- (5) A memorial under subsection (4) must be in a form approved by the Registrar.
- (6) While a memorial is registered under subsection (4), the Registrar must not register under the *Transfer of Land Act 1893*, without the consent in writing of the Authority, any instrument affecting the land to which the memorial relates.
- (7) As soon as is practicable after the relevant land ceases to be subject to the condition or restriction to which a memorial relates, the Authority must withdraw the memorial by notice in a form approved by the Registrar, and the Registrar must cancel the memorial accordingly.

20. Compulsory taking of land

- (1) Development or redevelopment of land under, and the carrying out of, this Act and any incidental work is a public work for the purposes of Parts 9 and 10 of the *Land Administration Act 1997* and the *Public Works Act 1902*, and, if necessary for any of those purposes, the Authority is to be taken to be a local authority within the meaning of the *Public Works Act 1902*.
- (2) In applying Parts 9 and 10 of the *Land Administration Act 1997* and the *Public Works Act 1902* for the purposes of this section —
 - (a) “land” in those Acts has the same meaning as it has in section 3 of this Act;
 - (b) sections 170, 171, 172, 173, 174, 175 and 184 of the *Land Administration Act 1997* do not apply; and
 - (c) sections 187, 188, 189, 190 and 191 of the *Land Administration Act 1997* do not apply to land in the redevelopment area taken or acquired under the *Public Works Act 1902* before the commencement of this Act.
- (3) If land referred to in subsection (2)(c) 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.

21. Power of Governor to direct transfer to Authority

- (1) The Governor may by order direct a public authority to transfer to the Authority all of the estate and interest over which the public authority has power of disposal in a piece of land specified in the order.
- (2) The power in subsection (1) is only to be exercised in respect of land in the redevelopment area and if the Governor is satisfied that the land is required by the Authority for development or redevelopment under, or otherwise for the purposes of, this Act.
- (3) An order under subsection (1) is to specify the terms and conditions subject to which the transfer must be made.

- (4) A public authority must comply with a direction given to it under subsection (1), despite any other written law.

22. Temporary closure of streets

- (1) In this section and section 23 —

“**street**” means a thoroughfare as defined in the *Local Government Act 1995*.

- (2) Despite any provision of the *Local Government Act 1995*, the Authority may close, or restrict the thoroughfare in, a street in the redevelopment area —

- (a) by causing fences and barriers to be placed on or across the street; or
- (b) in any other manner,

if, and for the period that, the Authority considers that the closure or restriction is necessary for the performance of its functions.

- (3) A street may be closed for more than 3 days under subsection (1) only if the Authority has given at least 14 days’ notice of the closure to the chief executive officer of the City of Armadale.

23. Permanent closure of streets

A street in the redevelopment area may be closed under section 58 of the *Land Administration Act 1997* and regulations made under that Act, and for that purpose “local government” in that section and in those regulations —

- (a) includes the Authority; and
- (b) does not include the City of Armadale,

in relation to any such street.

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24. Delegation

- (1) The Authority may delegate any power or duty of the Authority under another provision of this Act to —
 - (a) a member;
 - (b) the chief executive officer, or a nominee of the chief executive officer, of the department of the Public Service principally assisting the Minister in the administration of this Act;
 - (c) the Public Transport Authority of Western Australia established by the *Public Transport Authority Act 2003* section 5;
 - (d) the Western Australian Land Authority established by the *Western Australian Land Authority Act 1992*;
 - (e) the Planning Commission; or
 - (f) a local government or a committee or employee of a local government.
- (2) The delegation must be in writing executed by the Authority.
- (3) A person exercising a power or performing a duty that has been delegated to the person under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (4) In addition to functions conferred by any other written law, it is a function of a body mentioned in subsection (1)(c), (d) or (e) to exercise a power or perform a duty that has been delegated to the body under this section.
- (5) Nothing in this section limits the ability of the Authority to perform a function through a staff member or agent.

[Section 24 amended by No. 31 of 2003 s. 143.]

25. Minister may give directions

- (1) The Minister may give written directions to the Authority with respect to the performance of its functions, 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 26.

- (2) The Authority must not, in the period before a direction under subsection (1) becomes effective under section 26, do or omit to do anything that would prevent the Authority complying with the direction when it becomes effective under that section.
- (3) The Minister must cause the text of any direction under subsection (1) to be laid before each House of Parliament —
 - (a) within 10 sitting days after the direction is given; or
 - (b) if the direction is the subject of a notice under section 17 of the *Statutory Corporations (Liability of Directors) Act 1996*, within 10 sitting days after it is confirmed under that section.
- (4) The text of a direction under subsection (1) must be included in the annual report submitted by the accountable authority of the Authority under section 66 of the *Financial Administration and Audit Act 1985*.

26. When directions take effect

- (1) Subject to this section, a direction under section 25(1) becomes effective on the expiry of 7 days after the board receives it or of such longer period as the Minister may, at the request of the board, determine.
- (2) If the board 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 section 17 of the *Statutory Corporations (Liability of Directors) Act 1996*, it does not become effective before it is confirmed under that section or the expiry of any extension of time notified under subsection (4).

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

27. Minister to have access to information

- (1) In this section —
“**document**” includes any tape, disc or other device or medium on which information is recorded or stored;
“**information**” means information specified, or of a description specified, by the Minister that relates to the functions of the Authority.
- (2) The Minister is entitled to have information in the possession of the Authority and, 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 provide information to the Minister;
 - (b) request the Authority to give the Minister access to information; and
 - (c) for the purposes of paragraph (b) make use of its staff to obtain the information and provide it to the Minister.
- (4) The Authority must comply with a request under subsection (3) and make its staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.

Part 4 — Redevelopment scheme

Division 1 — General

28. Authority to comply with redevelopment scheme

- (1) The Authority must perform its functions in accordance with the redevelopment scheme for the time being in force under this Part.
- (2) Subsection (1) does not affect the discretion conferred on the Authority by section 48(1).
- (3) A copy of the redevelopment scheme for the time being in force must be kept in the offices of the Authority and must be available for inspection by the public during office hours free of charge.

29. Contents of redevelopment scheme

A redevelopment scheme may make any provision that the Authority considers will promote the orderly and proper planning, development and management of the redevelopment area, including any provision that may be made by a town planning scheme under the Town Planning Act.

Division 2 — Preparation and approval of redevelopment scheme

30. Proposed redevelopment scheme

- (1) The Authority must submit a proposed redevelopment scheme to the Minister as soon as is practicable after the commencement of this Act.
- (2) The Authority may, under subsection (1), submit a proposed redevelopment scheme in 2 or more stages, each one being applicable to a part of the redevelopment area, and if it does so —
 - (a) this Part applies to each stage separately; and

- (b) a reference in this Act or another written law to a, or the, redevelopment scheme may be read as a reference to a redevelopment scheme for part of the redevelopment area as provided for by this subsection.
- (3) A proposed redevelopment scheme must not be submitted to the Minister unless sections 37 and 38 have been complied with in respect of that redevelopment scheme and it was prepared —
 - (a) after consultation with the City of Armadale and the Planning Commission (whether that consultation occurred before or after the commencement of this Act); and
 - (b) having regard to the views of the City of Armadale and the Planning Commission.
- (4) The Minister may —
 - (a) consent or refuse to consent to the public notification of a proposed redevelopment scheme submitted under this section; or
 - (b) consent to such public notification subject to modifications being made to the scheme, as directed by the Minister.
- (5) If the Minister refuses to consent to the public notification of a proposed redevelopment scheme submitted under this section, the Minister must give directions to the Authority as to the preparation of a further scheme to be submitted under this section.
- (6) The Authority must comply with any direction of the Minister under subsection (4) or (5).
- (7) The Minister must cause the text of any direction given under subsection (4) or (5) to be —
 - (a) laid before each House of Parliament within 10 sitting days of that House after the day on which the direction is given; and

- (b) included in the annual report submitted by the accountable authority of the Authority under section 66 of the *Financial Administration and Audit Act 1985*.

31. Proposed scheme to be publicly notified

- (1) Public notification of a proposed redevelopment scheme in respect of which the Minister has given consent under section 30(4) must be given in accordance with subsection (2).
- (2) The proposed redevelopment scheme must be publicly notified by the Authority by the publication —
 - (a) in the *Gazette*; and
 - (b) in 2 issues of a daily newspaper circulating in the City of Armadale,of a notice —
 - (c) specifying the places at which —
 - (i) a copy of the scheme may be inspected; and
 - (ii) copies of the scheme may be obtained;and
 - (d) stating the effect of section 32 and specifying the period referred to in that section.
- (3) The Authority may fix and charge a fee for supplying copies of a proposed redevelopment scheme.
- (4) The Authority must, in addition to complying with subsection (2), make reasonable endeavours to consult in respect of the proposed redevelopment scheme such public authorities and persons as appear to the Authority to be likely to be affected by that redevelopment scheme.

32. Public submissions

- (1) Written submissions on the proposed redevelopment scheme may be made by any person —

- (a) within a period determined by the Authority that is not less than 60 days after the day on which the notice is published in the *Gazette*; and
 - (b) by delivering or posting them so that they are received within that period at the offices of the Authority.
- (2) The Authority may modify the proposed redevelopment scheme as it thinks fit to give effect to any submission so received.

33. Approval by Minister

- (1) After sections 39 and 40 have been complied with, the Authority must submit the proposed redevelopment scheme, with any modifications made under section 32(2), to the Minister for approval.
- (2) The scheme as so submitted must be accompanied by —
 - (a) a summary of all submissions made under section 32; and
 - (b) a report by the Authority on the merits of those submissions.
- (3) The Minister may —
 - (a) approve or refuse to approve the proposed redevelopment scheme; or
 - (b) approve the scheme subject to modifications being made to the scheme, as directed by the Minister.
- (4) If the Minister refuses to approve a proposed redevelopment scheme submitted under this section, the Minister must give directions to the Authority as to the preparation of a further scheme to be submitted under section 30 or under subsection (1), as the Minister may specify.
- (5) The Authority must comply with any direction of the Minister under subsection (3) or (4).

- (6) The Minister must cause the text of any direction given under subsection (3) or (4) to be —
- (a) laid before each House of Parliament within 10 sitting days of that House after the day on which the direction is given; and
 - (b) included in the annual report submitted by the accountable authority of the Authority under section 66 of the *Financial Administration and Audit Act 1985*.

34. Notice of approval

- (1) Notice that a redevelopment scheme has been approved by the Minister under section 33 must be published by the Authority in the *Gazette* together with a note showing where a copy of the redevelopment scheme may be inspected or obtained.
- (2) A redevelopment scheme comes into operation on the day of publication in the *Gazette* of a notice under subsection (1), or on any later day that is specified in the scheme.
- (3) The Authority may fix and charge a fee for supplying copies of a redevelopment scheme.

Division 3 — Amendment of redevelopment scheme

35. Amendment of redevelopment scheme

- (1) A redevelopment scheme may be amended in accordance with this section.
- (2) The Authority must submit any proposed amendment to the Minister.
- (3) The following provisions apply for the purposes of this section, with all necessary changes —
 - (a) sections 30(3), 30(4), 31 and 33, as if references in those sections to a, or the, proposed redevelopment scheme were references to the proposed amendment to the redevelopment scheme;

- (b) section 30(5) and 30(6), as if, in section 30(5) —
 - (i) the reference to a proposed redevelopment scheme were a reference to the proposed amendment to the redevelopment scheme;
 - (ii) the reference to a further scheme were a reference to another amendment; and
 - (iii) the words “may give” were substituted for “must give”;
- (c) section 32, as if the reference in that section —
 - (i) to the proposed redevelopment scheme were a reference to the proposed amendment to the redevelopment scheme;
 - (ii) in subsection (1)(a), to the Authority were a reference to the Minister; and
 - (iii) to 60 days were a reference to 42 days;and
- (d) section 34, as if references in that section to a redevelopment scheme were references to the amendment to a redevelopment scheme.

36. Saving

A development in respect of which an approval under section 48 is in force immediately before an amendment to a redevelopment scheme comes into force under section 35 may be lawfully carried out as if the amendment had not been made.

Division 4 — Role of EPA in respect of development schemes, etc.

37. Reference of proposed redevelopment schemes, and proposed amendments to redevelopment schemes, to EPA

When the Authority resolves to prepare a redevelopment scheme, or an amendment to a redevelopment scheme, the

Authority must forthwith refer the redevelopment scheme or amendment to the EPA by giving to the EPA —

- (a) written notice of that resolution; and
- (b) such written information about the redevelopment scheme or amendment as is sufficient to enable the EPA to comply with section 48A of the EP Act in relation to the redevelopment scheme or amendment.

38. Prerequisite to submission of proposed redevelopment schemes, and proposed amendments to redevelopment schemes, to Minister for approval before public notification

- (1) If the EPA has acted under paragraph (a) of section 48C(1) of the EP Act in relation to a proposed redevelopment scheme or a proposed amendment to a redevelopment scheme, the Authority must, if it wishes to proceed with that redevelopment scheme or amendment, undertake an environmental review of that redevelopment scheme or amendment in accordance with the relevant instructions issued under that paragraph and must not submit that redevelopment scheme or amendment to the Minister for consent to public notification under section 30, or under section 35 as read with section 30, as the case requires, until —
 - (a) the Authority has forwarded that review to the EPA; and
 - (b) the EPA has advised that that review has been undertaken in accordance with those instructions, or 30 days have elapsed since that forwarding without the EPA having advised whether or not that review has been undertaken in accordance with those instructions, whichever first occurs.
- (2) If the EPA has advised that the review has not been undertaken in accordance with the relevant instructions issued under section 48C(1)(a) of the EP Act, the Authority may —
 - (a) comply with subsection (1) in respect of the redevelopment scheme or amendment concerned; or

- (b) request the Minister to consult the Minister for the Environment and, if possible, agree with him or her on whether or not that review has been undertaken in accordance with those instructions.
- (3) If the Minister, having complied with a request under subsection (2), and the Minister for the Environment —
 - (a) agree on whether or not the review has been undertaken in accordance with the relevant instructions, their decision is final and without appeal; or
 - (b) cannot so agree, section 48J of the EP Act applies.

39. Role of Authority in relation to environmental submissions

If the Authority has been informed under section 48A(1)(b)(i) of the EP Act that the proposed redevelopment scheme or amendment should be assessed by the EPA under Part IV Division 3 of the EP Act, the Authority must —

- (a) as soon as practicable, but in any event within 7 days after the expiry of the period referred to in section 32(1)(a), or in section 35 as read with section 32(1)(a), as the case requires, transmit to the EPA a copy of each submission —
 - (i) made under section 32, or under section 35 as read with section 32, as the case requires; and
 - (ii) relating wholly or in part to environmental issues raised by that redevelopment scheme or amendment;
- and
- (b) within 42 days, or such longer period as the Minister allows, after the expiry of the period referred to in section 32(1)(a), or in section 35 as read with section 32(1)(a), as the case requires, inform the EPA of its views on and response to the environmental issues raised by submissions referred to in paragraph (a) and received within that period.

40. Prerequisite to final approval by Minister of proposed redevelopment schemes and proposed amendments to redevelopment schemes

The Minister must not approve under section 33, or under section 35 as read with section 33, a proposed redevelopment scheme or amendment referred to the EPA under section 37 if he or she has reached agreement with the Minister for the Environment under section 48A(2)(b) of the EP Act, or until —

- (a) the Authority is informed under section 48A(1)(a) of the EP Act that the EPA considers that that redevelopment scheme or amendment should not be assessed by the EPA under Part IV Division 3 of the EP Act;
- (b) he or she has received a statement delivered under section 48F(2), or a decision has been made under section 48J, of the EP Act in respect of the conditions, if any, to which that redevelopment scheme or amendment is subject; or
- (c) the period of 28 days referred to in section 48A(1)(b)(i) of the EP Act has expired without the EPA having informed the Authority under that section,

whichever first occurs, and he or she is satisfied that the conditions, if any, to which that redevelopment scheme or amendment is subject have been incorporated into that redevelopment scheme or amendment.

Part 5 — Development control

41. Definition

In this Part —

“appointed day” means the day on which a redevelopment scheme comes into operation under section 34(2).

42. Crown bound

This Part binds the Crown.

43. Certain planning schemes cease to apply

(1) In this section —

“planning scheme” means —

- (a) any town planning scheme under the Town Planning Act that is in operation in the redevelopment area immediately before the appointed day; and
 - (b) the Metropolitan Region Scheme.
- (2) On and after the appointed day, the planning schemes are repealed in relation to the redevelopment area so that they do not apply to a development that commences in that area on or after that day.
- (3) Section 37 of the *Interpretation Act 1984* applies in respect of the repeal effected by subsection (2) as if the planning schemes were enactments within the meaning of that section.
- (4) Subsection (3) has effect subject to any provision of the redevelopment scheme relating to non-conforming uses.

44. Saving

- (1) This Part does not apply to a development that was lawfully being carried out in the redevelopment area immediately before the appointed day.

- (2) A development referred to in subsection (1), or in respect of which all necessary approvals under the planning schemes referred to in section 43(1) were in force immediately before the appointed day —
 - (a) may be lawfully carried out as if this Part had not been enacted; and
 - (b) is to be governed by those schemes despite section 43(2).

45. Development to be approved

- (1) A person must not undertake any development or cause any development to be undertaken on land that is in, or partly in, the redevelopment area without the approval of the Authority or in contravention of a condition attached to an approval.
Penalty: \$50 000, and a daily penalty of \$5 000.
- (2) The requirements of subsection (1) extend to the Authority.
- (3) It is immaterial for the purposes of this Part that a development is undertaken in the performance of a function vested in a person by a written law.

46. Applications for approval

- (1) An application for approval under section 45 must be made to the Authority in the prescribed form with the prescribed fee.
- (2) An application must be accompanied by plans and specifications of the proposed development, and an applicant must also provide any information or documents relating to the proposed development that the Authority may reasonably require.

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47. Consultation with other authorities

- (1) The Authority must refer, by notice in writing, particulars of the proposed development —
 - (a) to each public authority that appears to it to have functions that are relevant to, or whose operations are likely to be affected by, the proposed development; and
 - (b) to the City of Armadale.
- (2) The City of Armadale and a public authority to which particulars are referred under subsection (1) may make submissions on the proposed development to the Authority.
- (3) The Authority must not make a decision under section 48 on the proposed development until —
 - (a) the expiration of 30 days after all notices have been given as required by subsection (1); or
 - (b) final submissions have been made to it by all authorities to which particulars were referred under that subsection,whichever is the sooner.

48. Authority's decision

- (1) The Authority may grant or refuse to grant approval of the proposed development having regard to —
 - (a) the redevelopment scheme;
 - (b) consultations under section 47;
 - (c) the requirements of orderly and proper planning; and
 - (d) the preservation of the amenities of the area.
- (2) The Authority may attach to an approval any condition that is within the objects of this Act.
- (3) The Authority may limit the time for which an approval remains in force.

- (4) An approval under this section is in addition to, and does not derogate from, the requirements of any other written law.
- (5) The Authority must cause notice in writing of its decision to be given to the applicant, the City of Armadale and each public authority to which notice was given under section 47(1)(a).

49. Referral of certain applications to Minister

- (1) If the Authority is the applicant, or has a financial interest in the subject matter of an application by reason of its participation in a business arrangement, within the meaning in section 17(9), the Authority must consider the application in accordance with section 48(1) and refer the application and all relevant information to the Minister with a recommendation as to the decision to be made.
- (2) If an application is referred to the Minister under subsection (1) —
 - (a) the Minister must perform the functions of the Authority under section 48; and
 - (b) for the purpose of that section and sections 45 and 50, references to the Authority are to be read as references to the Minister.

50. Review of certain decisions

An applicant may apply to the State Administrative Tribunal for a review, in accordance with Part V of the Town Planning Act, of a decision of the Authority under section 48 in respect of the applicant's application.

[Section 50 inserted by No. 55 of 2004 s. 54.]

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51. Liability of officers for offence committed by body corporate

(1) In this section —

“**officer**”, in relation to a body corporate, means —

- (a) a director, secretary or executive officer of the body corporate;
- (b) a receiver, or receiver and manager, of property of the body corporate, or any other authorised person who enters into possession or assumes control of property of the body corporate for the purpose of enforcing any charge;
- (c) an official manager or a deputy official manager of the body corporate;
- (d) a liquidator of the body corporate; and
- (e) a trustee or other person administering a compromise or arrangement made between the body corporate and another person or other persons,

and any other person, by whatever name called and whether or not a director of the body corporate, who is concerned, or takes part, in the management of the body corporate.

(2) If a body corporate is guilty of an offence against section 45 and it is proved that —

- (a) the offence was committed with the consent or connivance of an officer of the body corporate; or
- (b) an officer of the body corporate failed to exercise all the due diligence to prevent the commission of the offence that ought to have been exercised having regard to the nature of the officer’s functions and to all the circumstances,

the officer commits the offence.

52. Power to direct cessation or removal of unlawful development

(1) The Authority may —

- (a) by notice in writing served on a person who is undertaking any development in contravention of section 45, direct the person to stop doing so immediately; or
 - (b) by notice in writing served on a person who has undertaken any development in contravention of that section, direct the person within a period not less than 21 days after the service of the notice, as is specified in the notice, to remove, pull down, take up, or alter any development undertaken in contravention of that section,
- or may by one notice give both directions to a person.
- (2) A person on whom a notice is served containing a direction under subsection (1)(b) may apply to the State Administrative Tribunal for a review, in accordance with Part V of the Town Planning Act, of the decision to give the direction.
 - (3) A notice containing a direction under subsection (1)(b) is suspended as to that direction pending the determination of the application.
 - (4) If the State Administrative Tribunal confirms or varies the direction, the State Administrative Tribunal may, by notice in writing served on the person, direct the person to comply with the direction as so confirmed or varied, within a period not less than 21 days after the service of the notice, as is specified in the notice.
 - (5) A person must comply with a notice given to the person under this section.
Penalty: \$50 000, and a daily penalty of \$5 000.
 - (6) If a person fails to comply with a notice given to the person under subsection (1)(b), the Authority may itself remove, pull down, take up or alter the development and may recover from the person the costs incurred by the Authority in so doing as a debt in a court of competent jurisdiction.

[Section 52 amended by No. 55 of 2004 s. 55.]

53. Powers of Minister to ensure that environmental conditions are met

(1) In this section —

“assessed scheme” means a redevelopment scheme, or an amendment to a redevelopment scheme, that is an assessed scheme within the meaning of the EP Act;

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

(2) After receiving advice from the Minister for the Environment under section 48H(4) of the EP Act the Minister may exercise one or more of the powers set out in subsection (3) in relation to a development implementing an assessed scheme.

(3) For the purposes of subsection (2) the Minister may —

(a) by order in writing served on the person who is undertaking the development, direct the person to stop doing so for such period, beginning immediately and lasting not more than 24 hours, as is specified in the order;

(b) cause the Authority to serve a 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 so specified, for the purpose of —

(i) complying with; or

(ii) preventing any non-compliance with,
the environmental condition to which the Minister for the Environment’s advice relates; or

(c) advise the Authority to cause such steps to be taken as are necessary for the purpose of —

(i) complying with; or

(ii) preventing any non-compliance with,

the environmental condition to which the Minister for the Environment's advice relates.

- (4) A person must comply with an order or notice served on the person under subsection (3)(a) or (b).

Penalty: \$50 000, and a daily penalty of \$5 000.

- (5) Nothing in this section prevents or otherwise affects the application of Part V of the EP Act to —

- (a) a development referred to in subsection (2); or
- (b) pollution or environmental harm caused by any non-compliance with an environmental condition referred to in subsection (3).

[Section 53 amended by No. 54 of 2003 s. 68(1).]

54. Compensation

- (1) Sections 11(1), (3) and (4) and 12 of the Town Planning Act apply with all necessary changes to land in the redevelopment area as if —

- (a) the redevelopment scheme were a town planning scheme under that Act;
- (b) the Authority were a local government or a responsible authority under that Act; and
- (c) in section 11(3) of that Act, the word “amended” were substituted for “altered or revoked by an order of the Minister under this Act”.

- (2) If under the redevelopment scheme any land is reserved, zoned or classified for a public purpose, Part V (other than sections 36A, 37 and 37A) of the Metropolitan Scheme Act applies with all necessary changes as if —

- (a) the land were reserved for a public purpose under the Metropolitan Region Scheme;

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- (b) references in that Part to the Commission and the Scheme were references to the Authority and to the redevelopment scheme respectively; and
 - (c) in section 36(1)(b) of that Act, “amended” were substituted for “varied, amplified or revoked by the Commission”.
- (3) Compensation is not payable under an Act as applied by subsection (1) or (2) 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.
- (4) If a claim for compensation has been made but not disposed of before the appointed day, and is one that might have been made under this section, the claim may be continued after the appointed day as if it had been made under this section.

Part 6 — Financial provisions

55. Funds of Authority

- (1) The funds available for the purpose of enabling the Authority to perform its functions consist of —
 - (a) moneys from time to time appropriated by Parliament;
 - (b) moneys received by the Authority in the performance of its functions;
 - (c) moneys borrowed by the Authority under section 57 or 58;
 - (d) the proceeds of disposals of land by the Authority;
 - (e) rents derived from land leased by the Authority;
 - (f) income derived from the investment under section 56 of moneys standing to the credit of the Account; and
 - (g) other moneys lawfully received by, made available to or payable to the Authority.
- (2) The funds referred to in subsection (1) are to be credited to an account at a bank approved by the Treasurer to be called the “Armadale Redevelopment Authority Account”.
- (3) The Account is to be charged with —
 - (a) interest on, fees payable in respect of, and repayments of, moneys borrowed by or advanced to the Authority under section 57 or 58;
 - (b) the remuneration and travelling and other allowances payable under section 10; and
 - (c) all other expenditure lawfully incurred by the Authority in the performance of its functions.

56. Investment

- (1) Moneys standing to the credit of the Account may, until required for the purposes of this Act, be temporarily invested as the Treasurer directs in any securities in which moneys standing

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to the credit of the Public Bank Account, as constituted under the *Financial Administration and Audit Act 1985*, may lawfully be invested.

- (2) Income derived from any such investment must be credited to the Account.

57. Borrowing by Authority from Treasurer

- (1) The Authority may borrow from the Treasurer the amounts that the Treasurer approves on the conditions relating to repayment and payment of interest that the Treasurer imposes.
- (2) By virtue of this subsection the Account and the assets of the Authority are charged with the due performance by the Authority of all obligations arising from any advance made under this section.

58. Borrowing by Authority generally

- (1) This section is in addition to, and not in derogation from, the provisions of section 57.
- (2) The Authority may —
 - (a) with the prior approval of the Treasurer in writing and on the terms and conditions that the Treasurer approves, borrow moneys for the purpose of performing its functions; and
 - (b) borrow moneys under this subsection on the guarantee of the Treasurer given under section 59.
- (3) Any moneys borrowed by the Authority under subsection (2) may be raised as one loan or as several loans and in the manner that the Treasurer approves, but the amount of the moneys so borrowed must not in any one financial year exceed in the aggregate the amount that the Treasurer approves.

59. Guarantee by Treasurer

- (1) The Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee, in the form and subject to the terms and conditions that the Treasurer determines, the payment of any moneys payable by the Authority in respect of moneys borrowed by it under section 58.
- (2) The due payment of moneys payable by the Treasurer under a guarantee given under subsection (1) —
 - (a) is guaranteed by the State; and
 - (b) must be made by the Treasurer and charged to the Consolidated Fund and this subsection appropriates that Fund accordingly.
- (3) By virtue of this subsection the Account and the assets of the Authority are charged with the due repayment of any payment made by the Treasurer under a guarantee given under subsection (1) and with the performance and observance by the Authority of any covenants and conditions that the Treasurer imposes as a term of that guarantee.
- (4) The Treasurer must cause any amounts received or recovered from the Authority or otherwise in respect of any payment made by the Treasurer under a guarantee given under subsection (1) to be credited to the Consolidated Fund.
- (5) Before a guarantee is given by the Treasurer under subsection (1), the Authority must give to the Treasurer the security that the Treasurer requires and must execute all instruments that are necessary for the purpose.
- (6) If a guarantee is given by the Treasurer under subsection (1), the Treasurer must cause the text of the guarantee to be published in the *Gazette* within 28 days and laid before each House within 14 sitting days of being published.

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60. Charges for guarantees

- (1) The Treasurer may, after consulting the Authority, fix charges to be paid by the Authority to the Treasurer for the benefit of the Consolidated Fund in respect of a guarantee given under section 59.
- (2) Payment of any charges fixed under subsection (1) must be made at such time or times as the Treasurer determines.

61. Application of *Financial Administration and Audit Act 1985*

The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Authority and its operations.

62. Surplus

Any surplus in the Account at the end of any financial year that is not reasonably required by the Authority for the purposes of this Act must be paid by the Authority, in whole or in part as the Treasurer directs, to the credit of the Consolidated Fund.

Part 7 — General

63. Community reference groups

- (1) The Minister may establish one or more committees (“**community reference groups**”) to assist the Authority in obtaining a broad cross-section of community views on matters relating to the performance of its functions under this Act.
- (2) Subject to subsection (3), the membership of a community reference group is to comprise persons who, in the opinion of the Minister, are representative of the community in Armadale.
- (3) The Minister is to appoint a member of the board to be the chairperson of a community reference group.
- (4) The Minister may, after consulting the Authority, give directions in writing to a community reference group about its procedures but otherwise a community reference group may determine its own procedures.
- (5) The Minister may alter, reconstitute or discharge a community reference group.
- (6) The Minister may, in writing, delegate a power or duty of the Minister under this section (other than this power or the power in subsection (4)) to the Authority.

64. Modification of other laws

Section 33 of the Town Planning Act applies with all necessary modifications for the purposes of carrying out a redevelopment scheme as if the reference in that section —

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

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65. Protection from liability

- (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 Crown is relieved of any liability that it might have for another person having done anything as described in that subsection.
- (4) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.
- (5) In this section, a reference to the doing of anything includes a reference to the omission to do anything.

66. Confidentiality

A person who is or has been a member of the board, a member of a committee, a member of a community reference group under section 63 or a staff member must not, directly or indirectly, record, disclose or make use of any information obtained in the course of duty except —

- (a) for the purpose of performing functions under this Act;
- (b) as required or allowed by this Act or under another written law;
- (c) in the case of a member of the board appointed under section 7(2)(b) —
 - (i) in connection with the performance of his or her functions as a member of the council; and
 - (ii) to a closed meeting, or a closed committee meeting, of the council;

- (d) with the written consent of the person to whom the information relates; or
- (e) in prescribed circumstances.

Penalty: \$10 000 and imprisonment for 12 months.

67. Execution of documents by the 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 must not be affixed to any document except as authorised by the Authority.
- (4) The common seal of the Authority must be affixed to a document in the presence of 2 members of the board, and each of them must sign the document to attest that the common seal was so affixed.
- (5) The Authority may, by writing under its common seal, authorise a member or members of the board or a staff member or staff members to sign documents on behalf of the Authority, either generally or subject to such conditions and restrictions as are specified in the authorisation.
- (6) A document purporting to be executed in accordance with this section is to be presumed to be duly executed until the contrary 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 until the contrary is shown.

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68. Regulations

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Without limiting subsection (1), regulations may provide for —
 - (a) the procedure to be followed in applications for approval under Part 5; and
 - (b) the imposition and payment of fees and charges in connection with those applications.

[69. Omitted under the Reprints Act 1984 s. 7(4)(e).]

70. 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 expiration of 5 years from its commencement, and in the course of that review the Minister must consider and have regard to —
 - (a) the effectiveness of the operations of the Authority;
 - (b) the need for the continuation of the functions of the Authority and for the continuation of this Act; and
 - (c) any other matters that appear to the Minister to be relevant to the operation and effectiveness of this Act.
- (2) The Minister must prepare a report based on the review made under subsection (1) and, as soon as is practicable after the report is prepared, cause it to be laid before each House of Parliament.

71. Expiry of Act and related provisions

- (1) This Act, other than subsections (4), (5) and (6), expires —
 - (a) on 31 December 2011; or
 - (b) if a day is fixed under subsection (2), on that day.

- (2) Regulations may be made under section 68 fixing a day that is later than 31 December 2011 for the purposes of subsection (1)(b).
- (3) Before regulations referred to in subsection (2) are made the Minister must —
 - (a) consult with the council of the City of Armadale; and
 - (b) carry out a review of the operation and effectiveness of this Act and, in the course of that review, consider and have regard to the matters referred to in section 70(1).
- (4) On the expiry of this Act under subsection (1), the Minister must wind up the affairs of the Authority as soon as is practicable and for the purposes of winding up those affairs —
 - (a) all real and personal property and every right or interest that immediately before that expiry was vested in the Authority passes to and becomes vested in the State without any transfer or assignment;
 - (b) all rights, liabilities and obligations of the Authority that existed immediately before that expiry devolve on the State;
 - (c) all contracts, agreements and undertakings made by and with the Authority and having effect immediately before that expiry have effect as contracts, agreements and undertakings made by and with the Minister acting on behalf of, and in the name of, the State and may be enforced by or against the State accordingly; and
 - (d) any legal or other proceedings or any remedies that might, but for this section, have been commenced or continued or available by or against or to the Authority may be commenced or continued, or be available, by or against or to the State, as the case requires.
- (5) For the purposes of subsection (4) a reference to the Authority in —
 - (a) a written law in force; or

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(b) a document in existence,

immediately before the expiry of this Act under subsection (1) is to be construed, after that expiry, as a reference to the State or the Minister acting on behalf of the State, unless in the context it would be inappropriate to do so.

(6) Nothing in this section affects or limits any guarantee —

(a) given by the Treasurer under section 59 in respect of any money borrowed by the Authority under this Act; and

(b) in force immediately before the expiry of this Act under subsection (1),

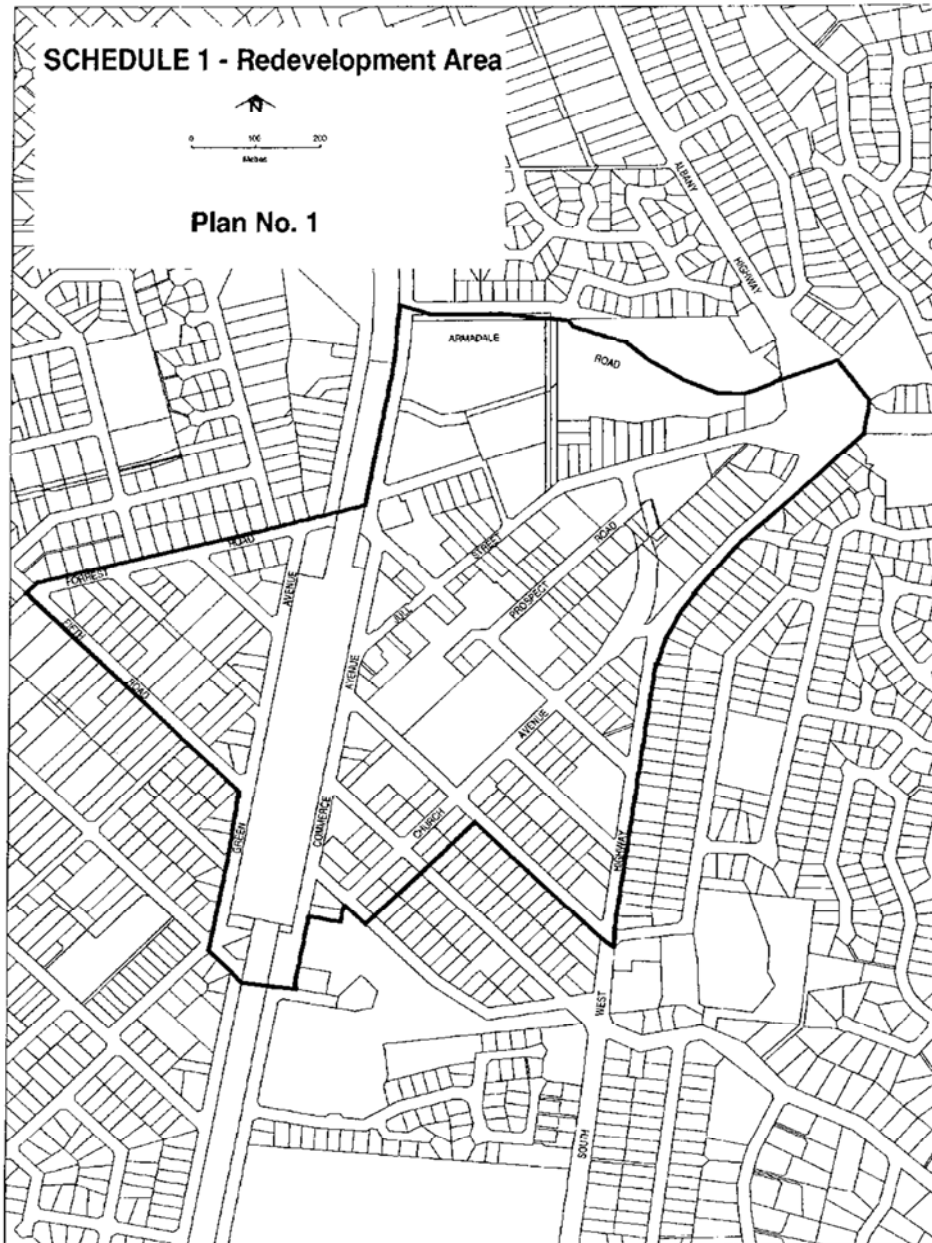
and section 59 continues to apply to that guarantee while that guarantee remains in force as if this section had not come into operation.

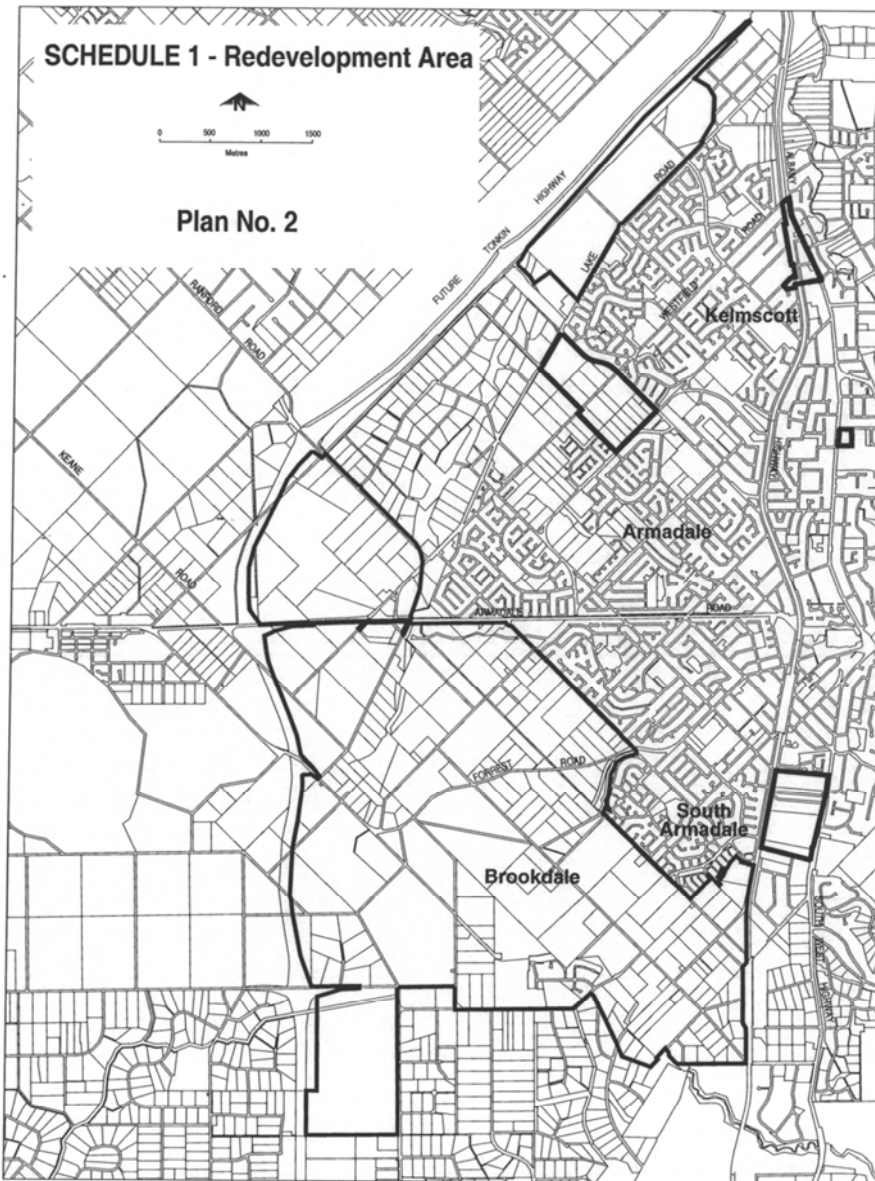
Schedule 1 — Redevelopment area

[s. 4]

All of the land in the areas outlined in bold on Plans Nos. 1 and 2 held at the office of the Authority, those plans being certified by the Minister as being the plans prepared for the purpose of defining the redevelopment area.

For guidance, the redevelopment area is indicated in the following representations of Plans Nos. 1 and 2 —





*[Schedule 1 amended in Gazette 5 Dec 2003 p. 4956-7; 7 Jan 2005 p. 56;
14 Jan 2005 p. 165-6.]*

Schedule 2 — Constitution and proceedings of the board

[s. 9]

Division 1 — General provisions

1. Term of office

- (1) Subject to clause 2, a member holds office for the term, not exceeding 3 years, that is specified in the instrument of his or her appointment, and is eligible for reappointment.
- (2) Unless —
 - (a) he or she sooner resigns;
 - (b) he or she is removed from office; or
 - (c) his or her office becomes vacant under clause 2(1)(b),

a member continues in office until his or her successor comes into office, despite the term for which the member was appointed having expired.

2. Resignation, removal, etc.

- (1) The office of a member becomes vacant if he or she —
 - (a) resigns the office by written notice addressed to the Minister;
 - (b) is an insolvent under administration, as that term is defined in the *Corporations Act 2001* of the Commonwealth;
 - (c) in the case of a member appointed under section 7(2)(b), ceases to be a member of the council of the City of Armadale; or
 - (d) is removed from office by the Minister under subclause (2).
- (2) The Minister may remove a member from office for —
 - (a) misbehaviour or incompetence;
 - (b) mental or physical incapacity, other than temporary illness, impairing the performance of his or her functions;
 - (c) absence, without leave or reasonable excuse, from 3 consecutive meetings of the board, or 5 meetings of the board in any calendar year, of which the member has had notice.

3. Chairperson and deputy chairperson

- (1) The office of chairperson or deputy chairperson becomes vacant if —
 - (a) the person holding the office resigns the office by written notice addressed to the Minister;
 - (b) the person holding the office ceases to be a member of the board; or
 - (c) the Minister declares the office to be vacant.
- (2) During any vacancy in the office of chairperson, or while he or she is unable to act because of sickness, absence or other cause, the deputy chairperson is to act in the chairperson's place.
- (3) An act or omission of the deputy chairperson acting in place of the chairperson cannot be questioned on the ground that the occasion for his or her so acting had not arisen or had ceased.
- (4) If the deputy chairperson is acting in place of the chairperson, clause 4(1) applies as if the deputy chairperson were absent from the meeting.

4. Alternate members

- (1) If a member other than the chairperson is unable to act because of sickness, absence or other cause, the Minister may appoint another person as an alternate member to act temporarily in the member's place.
- (2) While acting in accordance with the appointment the alternate member is to be taken to be a member.
- (3) 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.
- (4) The appointment of a person as an alternate member may be terminated at any time by the Minister.

5. Meetings

- (1) The first meeting of the board is to be convened by the chairperson and subsequently, subject to subclause (2), meetings are to be held at the times and places that the Authority determines.

- (2) A special meeting of the board may at any time be convened by the chairperson.
- (3) The chairperson must preside at all meetings of the board at which he or she is present.
- (4) If both the chairperson and the deputy chairperson are absent from a meeting the members present must appoint one of their number to preside.
- (5) A quorum for a meeting of the board is 4 members.
- (6) At any meeting of the board the chairperson, deputy chairperson or other person presiding has a deliberative vote and, in the case of an equality of votes, also has a casting vote.
- (7) The board must cause accurate minutes to be kept of the proceedings at its meetings.

6. Resolution without meeting

A resolution in writing signed by each member, or assented to by each member by letter, telegram, telex, or facsimile transmission, is as valid and effectual as if it had been passed at a meeting of the board.

7. Holding meetings remotely

The presence of a person at a meeting of the board 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.

8. Leave of absence

The board may grant leave of absence to a member on the terms and conditions that it thinks fit.

9. Committees

- (1) The board may from time to time appoint committees of those members, or those members and other persons, that it thinks fit and may discharge or alter any committee so appointed.

- (2) Subject to the directions of the Authority and to the terms of any delegation under section 24, each committee may determine its own procedures.

10. Board to determine own procedures

Subject to this Act, the board may determine its own procedures.

Division 2 — Disclosure of interests, etc.

11. Disclosure of interests

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

Penalty: \$10 000.

- (2) A disclosure under subclause (1) must be recorded in the minutes of the meeting.

12. Voting by interested members

A member who has a material personal interest in a matter that is being considered by the board —

- (a) must not vote whether at a meeting or otherwise —
- (i) on the matter; or
 - (ii) on a proposed resolution under clause 13 in respect of the matter, whether relating to that member or a different member;

and

- (b) must not be present while —
- (i) the matter; or
 - (ii) a proposed resolution of the kind referred to in paragraph (a)(ii),

is being considered at a meeting.

13. Clause 12 may be declared inapplicable

Clause 12 does not apply if the board has at any time passed a resolution that —

- (a) specifies the member, the interest and the matter; and
- (b) states that the members voting for the resolution are satisfied that the interest should not disqualify the member from considering or voting on the matter.

14. Quorum where clause 12 applies

- (1) Despite clause 5(5), if a member of the board is disqualified under clause 12 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 board cannot deal with it because of subclause (1).

15. Minister may declare clauses 12 and 14 inapplicable

- (1) The Minister may, in writing, declare that clause 12 or 14 or both of them do not apply in relation to a specified matter either generally or in voting on particular resolutions.
- (2) The Minister must cause a copy of a declaration made under subclause (1) to be laid before each House of Parliament within 14 sitting days of that House after the declaration is made.

[Schedule 3 omitted under the Reprints Act 1984 s. 7(4)(e).]

Notes

¹ This is a compilation of the *Armadale Redevelopment Act 2001* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Armadale Redevelopment Act 2001</i>	25 of 2001	26 Nov 2001	23 Mar 2002 (see s. 2 and <i>Gazette</i> 22 Mar 2002 p. 1651)
<i>Public Transport Authority Act 2003</i> s. 143	31 of 2003	26 May 2003	1 Jul 2003 (see s. 2(1) and <i>Gazette</i> 27 Jun 2003 p. 2384)
<i>Environmental Protection Amendment Act 2003</i> s. 68(1)	54 of 2003	20 Oct 2003	19 Nov 2003 (see s. 2 and <i>Gazette</i> 18 Nov 2003 p. 4723)
<i>Armadale Redevelopment (Extension of Redevelopment Area) Regulations 2003</i> published in <i>Gazette</i> 5 Dec 2003 p. 4955-7			5 Dec 2003
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004</i> Pt. 2 Div. 9 ²	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Armadale Redevelopment (Extension of Redevelopment Area) Regulations 2004</i> published in <i>Gazette</i> 7 Jan 2005 p. 55-6			7 Jan 2005
<i>Armadale Redevelopment (Extension of Redevelopment Area) Regulations 2005</i> published in <i>Gazette</i> 14 Jan 2005 p. 165-6			14 Jan 2005
Reprint 1: The <i>Armadale Redevelopment Act 2001</i> as at 7 Oct 2005 (includes amendments listed above)			

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
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Planning and Development Act 2005 38 of 2005 12 Dec 2005 To be proclaimed (see s. 2)
(Consequential and Transitional Provisions)
Act 2005 s. 15³

² The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

³ On the date as at which this compilation was prepared, the *Planning and Development (Consequential and Transitional Provisions) Act 2005* s. 15, which gives effect to Sch. 2, had not come into operation. It reads as follows:

“

15. Acts in Schedule 2 amended

The Acts mentioned in Schedule 2 are amended as set out in that Schedule.

”.

Schedule 2, cl. 3 reads as follows:

“

Schedule 2 — Consequential amendments

[s. 15]

3. Armadale Redevelopment Act 2001

(1) Section 3 is amended as follows:

- (a) in the definition of “development” by deleting “Town Planning Act” and inserting instead —
“ *Planning and Development Act 2005* ”;
- (b) by deleting the definition of “Metropolitan Region Scheme” and inserting instead —

“

“**Metropolitan Region Scheme**” has the meaning given to that term in the *Planning and Development Act 2005* section 4;

”.

- (c) by deleting the definitions of “Metropolitan Scheme Act” and “Town Planning Act”;
- (d) in the definition of “Planning Commission” by deleting “section 4 of the *Western Australian Planning Commission Act 1985*” and inserting instead —

-
- “
section 7 of the *Planning and Development Act 2005*”
”;
- (e) by deleting the semicolon at the end of the definition of “staff member” and inserting a full stop.
- (2) Section 5(4)(a) is amended by deleting “town” and inserting instead —
“ local ”.
- (3) Section 17(8) is amended as follows:
(a) by deleting “section 20 of the Town Planning Act” and inserting instead —
- “
sections 135 and 136 of the *Planning and Development Act 2005*”
”;
- (b) in paragraph (c) by deleting “section 21 of the Town Planning Act” and inserting instead —
- “
section 147 of the *Planning and Development Act 2005*”
”.
- (4) Section 29 is amended by deleting “a town planning scheme under the Town Planning Act.” and inserting instead —
- “
a local planning scheme under the *Planning and Development Act 2005*.”
”.
- (5) Section 43(1) is amended in the definition of “planning scheme” as follows:
(a) by deleting “Town Planning Act” and inserting instead —
“ *Town Planning and Development Act 1928* ”;
(b) by deleting “and” after paragraph (a);
(c) by inserting after paragraph (a) —
- “
(aa) any local planning scheme under the *Planning and Development Act 2005* that is in operation in the redevelopment area immediately before the appointed day; and

(6) Section 50 is amended by deleting “Part V of the Town Planning Act” and inserting instead —

“ Part 14 of the *Planning and Development Act 2005* ”.

(7) Section 52(2) is amended by deleting “Part V of the Town Planning Act” and inserting instead —

“ Part 14 of the *Planning and Development Act 2005* ”.

(8) Section 54(1) and (2) are repealed and the following subsection is inserted instead —

“

(1) Part 11 Divisions 1 and 2 of the *Planning and Development Act 2005*, and sections 184(3) and (4), 187 and 188 of that Act, apply with all necessary changes to land in the redevelopment area as if —

- (a) the redevelopment scheme were a planning scheme under that Act;
- (b) the Authority were a responsible authority under that Act; and
- (c) in the case of land reserved, zoned or classified under the redevelopment scheme for a public purpose, the land were reserved for a public purpose under a planning scheme.

”.

(9) Section 54(3) is amended by deleting “an Act as applied by subsection (1) or (2)” and inserting instead —

“

the *Planning and Development Act 2005* as applied by subsection (1)

”.

(10) Section 64 is amended as follows:

- (a) by deleting “Section 33 of the Town Planning Act” and inserting instead —

“

Section 132 of the *Planning and Development Act 2005*

”;

- (b) in paragraph (a) by deleting “an approved scheme” and inserting instead —

“ a planning scheme ”.

”