Western Australia

Infrastructure Western Australia Act 2019

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Defined terms

Western Australia

Infrastructure Western Australia Act 2019

An Act —

- **to establish Infrastructure WA for the principal purpose of providing advice and assistance to the Government on matters relating to infrastructure; and**
- **to amend certain other Acts consequentially; and**
- **for related purposes.**

Part 1 — Preliminary

1. Short title

This is the *Infrastructure Western Australia Act 2019*.

2. Commencement

This Act comes into operation as follows —

(a) Part 1 — on the day on which this Act receives the Royal Assent (***assent day***);

(b) section 8(1)(b) and Part 3 Divisions 2 and 3 — on a day fixed by proclamation, and different days may be fixed for different provisions;

(c) the rest of the Act — on the day after the period of 1 month beginning on assent day.

3. Terms used

In this Act —

appointed Board member means a Board member appointed under section 26(2);

Board means Infrastructure WA's Board referred to in section 25;

Board member means a member of the Board;

CEO has the meaning given in section 49;

committee means a committee appointed under section 43;

Department of the Premier and Cabinet means the department of the Public Service principally assisting the Premier;

employing authority has the meaning given in the *Public Sector Management Act 1994* section 3(1);

ex-officio Board member means a person who is a Board member under section 26(3);

government employee means any of the following —

(a) a person employed in the Public Sector by or under an employing authority;

(b) a person who is an employee of a public authority;

Government response means a response to the State Infrastructure Strategy prepared by the Premier under section 16;

government trading enterprise means any of the following —

(a) a body established by the *Electricity Corporations Act 2005* section 4(1);

(b) a port authority established by the *Port Authorities Act 1999* section 4(1);

(c) a body established by or under the *Water Corporations Act 1995* section 4;

(d) the body established by the *Western Australian Land Authority Act 1992* section 5(1);

(e) a body prescribed for the purposes of this definition;

(f) a subsidiary of a body referred to in one of paragraphs (a) to (e);

infrastructure includes infrastructure that has, or is intended to have, economic, social or environmental value;

Infrastructure Australia means the body established by the *Infrastructure Australia Act 2008* (Commonwealth) section 4;

major infrastructure proposal means a proposal, for an infrastructure project or for a programme of infrastructure projects, if —

(a) the project has or the projects have an estimated capital cost of $100 million or more, or another amount prescribed for the purposes of this paragraph; or

(b) the proposal is nominated by the Premier for the purposes of this definition; or

(c) the project is or the projects are prescribed, or in a class of infrastructure project prescribed, for the purposes of this definition;

misconduct, in relation to an office holder, includes conduct that renders the office holder unfit to hold office even though the conduct does not relate to a duty of the office;

public authority means any of the following —

(a) a Minister of the Crown;

(b) an agency or an organisation as those terms are defined in the *Public Sector Management Act 1994* section 3(1);

(c) a body, whether incorporated or not, or the holder of an office, that is established or continued for a public purpose under a written law and that, under the authority of a written law, performs a statutory function on behalf of the Crown;

Public Sector has the meaning given in the *Public Sector Management Act 1994* section 3(1);

remuneration has the meaning given in the *Salaries and Allowances Act 1975* section 4(1);

staff member means the CEO or a person referred to in section 57, 58 or 59;

State agency means any of the following —

(a) an agency as defined in the *Financial Management Act 2006* section 3;

(b) a government trading enterprise;

State Infrastructure Programme means the State Infrastructure Programme in effect under Part 3 Division 2 for the time being;

State Infrastructure Strategy means the State Infrastructure Strategy in effect under Part 3 Division 1 for the time being;

unable to act, in relation to an office holder, includes, without limitation, that the office holder is on leave, whether extended or not and whether for illness or not.

4. Act binds Crown

This Act binds the Crown in right of Western Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

Part 2 — Infrastructure WA

5. Infrastructure WA established

(1) Infrastructure WA is established.

(2) Infrastructure WA —

(a) is a body corporate; and

(b) has perpetual succession; and

(c) has a common seal; and

(d) may sue and be sued in its corporate name.

6. Agent of Crown

Infrastructure WA is an agent of the Crown and has the status, immunity and privileges of the Crown.

7. Principal objects

Infrastructure WA's principal objects are —

(a) to provide advice and assistance to the Government on matters relating to infrastructure;

(b) to assist in enhancing the efficiency and effectiveness of infrastructure planning and coordination;

(c) to promote the adoption and use of policies, practices, information and analysis to support sound decision-making in relation to infrastructure.

8. Functions

(1) Infrastructure WA's functions are —

(a) to prepare and submit to the Premier State Infrastructure Strategies, in accordance with Part 3 Division 1;

(b) to assess and report to the Premier on major infrastructure proposals, in accordance with Part 3 Division 3;

(c) to provide advice and assistance to State agencies in the preparation of infrastructure strategies, plans and policies, including by preparing, at the request of the Premier, strategies, plans and policies on behalf of State agencies;

(d) to provide advice to State agencies on the preparation of infrastructure proposals;

(e) to review and report to the Premier on infrastructure proposals prior to their submission to Infrastructure Australia;

(f) under the direction of the Premier, to coordinate the provision of information and submissions to Infrastructure Australia;

(g) to monitor and report on progress in implementing the State Infrastructure Strategy, in accordance with Part 3 Division 5;

(h) to provide advice to the Premier on —

(i) infrastructure priorities;

(ii) funding and financing of infrastructure;

(iii) any other matter relating to infrastructure;

(i) to review and report to the Premier on completed infrastructure projects;

(j) to promote public awareness of matters relating to infrastructure;

(k) to perform the other functions conferred on Infrastructure WA under this Act;

(l) to perform, at the request of the Premier, any other function relating to infrastructure.

(2) When performing its functions, Infrastructure WA must consider the following —

(a) current relevant Government strategies, plans, policies, priorities and forecasts, including —

(i) population, economic, financial and environmental forecasts;

(ii) land use plans;

(iii) strategies, plans and policies relating to the various infrastructure sectors;

(iv) any other social, economic or environmental policies;

(b) the economic, social and environmental value of infrastructure;

(c) the infrastructure needs of the non-metropolitan regions;

(d) the needs of a broad range of users of infrastructure;

(e) the complete lifecycle of infrastructure;

(f) how existing infrastructure can be used more efficiently and effectively;

(g) technological advances and trends;

(h) social and demographic trends;

(i) the financial implications for the Crown (if any) of its advice and recommendations;

(j) any other relevant matter.

(3) When performing its functions Infrastructure WA is, where relevant, appropriate and practicable, to consult with interested persons, including (without limitation) the Regional Development Commissions, established under the *Regional Development Commissions Act 1993*, and other persons with knowledge of or an interest in the infrastructure needs of the non-metropolitan regions.

9. Advice and reports may be made publicly available

(1) Infrastructure WA may, with the approval of the Premier, make advice or a report prepared in the performance of a function under this Act publicly available.

(2) This section does not apply to a report or other thing that must or may be made publicly available under another provision of this Act.

10. Annual work programme

(1) Infrastructure WA must, in consultation with the Premier, prepare an annual work programme.

(2) Each programme must be submitted to the Premier before the beginning of the financial year to which it relates.

(3) Each programme must cover the key activities that Infrastructure WA proposes to undertake in the year to which it relates.

(4) Infrastructure WA must inform the Premier, in writing, of any key activity that it proposes to undertake in a year that is not covered by the work programme for the year.

(5) Infrastructure WA must make its annual work programme publicly available.

(6) Infrastructure WA may remove from an annual work programme any information that it considers to be confidential or otherwise not suitable to be made publicly available, prior to making the programme publicly available.

11. Powers

(1) Infrastructure WA has all the powers it needs to perform its functions.

(2) Without limiting subsection (1), Infrastructure WA may, for the purpose of performing any of its functions, but subject to any limitation imposed by this Act —

(a) enter into a contract or other arrangement, including a contract or arrangement for the provision of services to Infrastructure WA;

(b) develop and turn to account any technology, software or other intellectual property that relates to its functions and, for that purpose, apply for, hold, exploit and dispose of any intellectual property;

(c) acquire, dispose of and otherwise deal with real or personal property.

12. Delegation

(1) Infrastructure WA may delegate to a Board member, staff member or government employee any power or duty of Infrastructure WA under another provision of this Act.

(2) The delegation must be in writing executed by Infrastructure WA.

(3) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.

(4) A person exercising or performing a power or duty that has been delegated to the person under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.

(5) Nothing in this section limits Infrastructure WA's ability to perform a function through an officer or agent.

(6) This section does not apply to the execution of documents.

Note for this subsection:

Authority to execute documents on Infrastructure WA's behalf can be given under section 68.

Part 3 — Infrastructure strategy and planning

Division 1 — State Infrastructure Strategy

13. Preparation and submission to Premier

(1) Infrastructure WA must, from time to time, prepare and submit to the Premier a State Infrastructure Strategy.

(2) Each strategy, other than the first, must be prepared and submitted within 5 years of the previous one having been laid before Parliament under section 15.

(3) The Premier may direct that a strategy be prepared and submitted within a lesser period.

(4) Prior to submitting a State Infrastructure Strategy to the Premier, Infrastructure WA must make a draft of the proposed strategy publicly available, and undertake public consultation on the proposed strategy.

14. Content and preparation

(1) Infrastructure WA must include in the State Infrastructure Strategy —

(a) the identification of Western Australia's significant infrastructure needs and priorities over at least the next 20 years; and

(b) the economic, social and environmental objectives against which Western Australia's infrastructure needs were assessed; and

(c) recommendations about —

(i) significant projects or programmes, or other options, intended to meet those infrastructure needs and priorities; and

(ii) funding and financing options, when appropriate, for the projects, programmes and options;

and

(d) the relative priority of the recommendations.

(2) When preparing a State Infrastructure Strategy, Infrastructure WA must do the following —

(a) assess the current state of infrastructure in Western Australia;

(b) identify significant current, and expected future, deficiencies in Western Australia's infrastructure;

(c) identify the areas in which those deficiencies are contributing to, or may contribute to, significant economic, social or environmental costs;

(d) assess the short, medium and long-term options available to meet Western Australia's infrastructure needs and priorities, including reform of policy, pricing, regulation and technology;

(e) consider both investing in new infrastructure and making better use of existing infrastructure;

(f) consider the affordability of the recommendations in subsection (1)(c), including by reference to the financial targets set out in the most recently released Government Financial Strategy Statement under the *Government Financial Responsibility Act 2000*.

15. Acceptance, tabling and publication

(1) If a State Infrastructure Strategy is submitted to the Premier, the Premier must consider the strategy and, within 60 days of receipt of it, either accept it or return it to Infrastructure WA for further consideration and re-submission to the Premier.

(2) The Premier cannot return a strategy to Infrastructure WA more than once.

(3) If the Premier returns a strategy to Infrastructure WA —

(a) the Premier must provide in writing the Premier's feedback on the strategy; and

(b) Infrastructure WA must respond to the feedback, either in the re-submitted strategy or in a separate document.

(4) The Premier must, within 28 days of acceptance or re-submission of a strategy, cause the strategy to be —

(a) laid before each House of Parliament; and

(b) made publicly available.

16. Government response

(1) The Premier must prepare a response to each State Infrastructure Strategy laid before Parliament.

(2) The response must include —

(a) an indication of the extent to which each recommendation in the strategy is supported by the Government; and

(b) for each recommendation that is not fully supported — reasons why it is not fully supported.

(3) The Premier must, within 6 months after the day on which the strategy is laid before Parliament, cause the response to be —

(a) laid before each House of Parliament; and

(b) made publicly available.

(4) For the purposes of subsection (3), the day on which the strategy is laid before Parliament is —

(a) the day on which it is laid before both Houses; or

(b) if it is laid before the Houses on different days — the 2nd of those days.

(5) The Premier may amend the response at any time after it is laid before Parliament.

(6) An amendment cannot have effect until the amended response is —

(a) laid before each House of Parliament; and

(b) made publicly available.

17. Amendment

(1) Infrastructure WA may, from time to time, prepare and submit to the Premier amendments to the State Infrastructure Strategy.

(2) Sections 13(4), 15 and 16 apply with the necessary modifications.

Division 2 — State Infrastructure Programmes

18. State Infrastructure Programmes

(1) The Premier must, in consultation with the Treasurer, prepare annual State Infrastructure Programmes and make them publicly available.

(2) Each State Infrastructure Programme must be made publicly available within 3 months after the day on which the State Budget, for the first of the years to which the programme relates, is presented in the Legislative Assembly.

(3) A State Infrastructure Programme must cover a 10-year period and must include —

(a) an overview of the Government's proposed significant infrastructure investments for the year to which the Budget relates and the years covered by the forward estimates; and

(b) an overview of Western Australia's expected significant infrastructure needs and challenges over the remaining years and, where relevant, options to address them.

(4) When preparing a State Infrastructure Programme, the Premier must —

(a) take into account the recommendations in the State Infrastructure Strategy, to the extent to which the recommendations are supported by the current Government response; and

(b) seek Infrastructure WA's advice.

(5) The Premier may amend the State Infrastructure Programme and subsections (1) and (4) apply with the necessary modifications.

(6) The regulations may provide for the detail of the content of State Infrastructure Programmes.

Division 3 — Major infrastructure proposals

19. Infrastructure WA to assess major infrastructure proposals prior to investment decision

(1) This section applies to a major infrastructure proposal of a State agency, whether or not —

(a) funding for the proposal is or will be sought from the Crown or is to be provided by a State agency; or

(b) the proposal is intended to result in the infrastructure being held by the Crown or a State agency; or

(c) the proposal is a joint proposal.

(2) The major infrastructure proposal must be submitted to Infrastructure WA, and Infrastructure WA's report on the proposal must be received by the Premier, prior to the investment decision for the proposal.

(3) In subsection (2) —

investment decision, in relation to a proposal of a State agency, means the decision by the Government or the State agency to implement the proposal.

(4) Infrastructure WA must assess each proposal submitted to it in accordance with its assessment guidelines, and prepare, and give to the Premier, a report on the proposal and a high-level summary of the report.

(5) This section has effect despite any other written law (other than the *State Development Act 2025*).

(6) However, a failure to comply with this section does not affect the validity of any decision made or other thing done in relation to a proposal.

(7) Infrastructure WA may exempt a proposal from the application of this section.

[Section 19 amended: No. 21 of 2025 s. 102.]

20. Timing of assessment of major infrastructure proposals

(1) In relation to a major infrastructure proposal to which section 19 applies, Infrastructure WA and the State agency must negotiate as to the timeframe for reporting on the proposal.

(2) The regulations may deal with timeframes for reporting on major infrastructure proposals under section 19, including by —

(a) providing for and in relation to negotiated timeframes; and

(b) setting default timeframes.

21. Guidelines and summary reports

(1) Infrastructure WA must, in consultation with the Premier, prepare guidelines indicating how it will assess major infrastructure proposals.

(2) Infrastructure WA must make the guidelines, as they have effect from time to time, publicly available.

(3) For each report given to the Premier under section 19, the Premier must make the summary of the report publicly available

within 6 months after the day on which the report is given to the Premier.

(4) If the Premier does not make the summary publicly available within the 6 months, Infrastructure WA must make the summary publicly available.

Division 4 — Obligations of State agencies

22. State agencies to provide information to Infrastructure WA

(1) Infrastructure WA may request a State agency to give it any information it requires for the purposes of performing its functions under this Act.

(2) A request must be in writing if the agency requests that.

(3) When giving information to Infrastructure WA, a State agency may identify information that, in the opinion of the agency, is the subject of a duty of confidentiality or secrecy or is of a commercially sensitive nature.

(4) When identifying information for the purposes of subsection (3), a State agency must —

(a) do so in writing; and

(b) be as specific as practicable; and

(c) give reasons.

(5) A State agency is not required to give information if, in the opinion of the agency —

(a) the information relates to an investigative, law enforcement or complaints handling function of the agency; or

(b) the information is subject to legal professional privilege; or

(c) giving the information would be in contempt of court or contravene an order or direction of a person or body acting judicially.

(6) A State agency that does not give information in reliance on subsection (5), must give written reasons.

(7) If a State agency that is a department of the Public Service has a function or may form an opinion under this section the chief executive officer of the department has the function or may form the opinion.

23. Obligations of State agencies

(1) A State agency has the following obligations —

(a) to cooperate with Infrastructure WA in the performance of Infrastructure WA's functions;

(b) to comply in a timely manner with —

(i) requests for information under section 22, subject to section 22(5); and

(ii) the requirements of section 22(4) and (6), when relevant;

(c) to align its strategies, plans and policies with, and implement —

(i) the recommendations in the State Infrastructure Strategy that are relevant to the agency, to the extent to which the recommendations are supported by the current Government response; and

(ii) the relevant aspects of the State Infrastructure Programme.

(2) To the extent to which there is inconsistency between the Government response and the State Infrastructure Programme, the more recent prevails for the purposes of subsection (1)(c).

(3) If an obligation that a State agency has under this section conflicts or is inconsistent with an obligation that it has under the Act under which it is established or continued, the obligation

under this section prevails to the extent to which the obligations conflict or are inconsistent.

(4) If a State agency that is a department of the Public Service has an obligation under this section the chief executive officer of the department has the obligation.

(5) No civil or criminal liability attaches to a State agency or any other person, and no invalidity arises, only because the agency or person has not complied with an obligation under this section.

Division 5 — Implementation of State Infrastructure Strategy

24. Report on implementation of State Infrastructure Strategy

(1) Infrastructure WA must, in consultation with relevant State agencies, prepare annual reports on the Government's progress in implementing the recommendations in the State Infrastructure Strategy, taking into account the current Government response and the State Infrastructure Programme.

(2) Infrastructure WA must make the reports publicly available.

Part 4 — Governance and administration

Division 1 — The Board

Subdivision 1 — Board constituted

25. Board is governing body of Infrastructure WA

(1) Infrastructure WA is to have a board.

(2) The Board is Infrastructure WA's governing body and, in the name of Infrastructure WA, is to perform its functions.

26. Board membership

(1) The Board consists of up to 10 members.

(2) The Governor may, on the Premier's recommendation, appoint up to 7 members.

(3) The following are members of the Board —

(a) the chief executive officer of the Department of the Premier and Cabinet;

(b) the Under Treasurer (that is, the chief executive officer of the department of the Public Service principally assisting in the administration of the *Financial Management Act 2006*);

(c) the chief executive officer of the department of the Public Service principally assisting in the administration of the *Planning and Development Act 2005*.

(4) The Premier must ensure that the number of Board members who are government employees does not exceed the number of Board members who are not government employees.

(5) The Premier must ensure that the Board members have, between them, expertise across a broad range of infrastructure sectors.

(6) Before recommending a person who is not a government employee, the Premier must be satisfied that the person has appropriate expertise in the areas of infrastructure policy, planning, strategy, funding, financing or delivery.

(7) A person who is a staff member cannot be appointed as a Board member.

(8) A person who is or has been within the preceding 3 years a member of the Parliament of the Commonwealth or any State or Territory cannot be appointed as a Board member.

27. Chairperson and deputy chairperson

(1) The Governor, on the Premier's recommendation, must designate a Board member to be the chairperson of the Board and another to be the deputy chairperson of the Board.

(2) Neither the chairperson nor the deputy chairperson can be a government employee.

(3) If the chairperson is unable to act or the position of chairperson is vacant, the deputy chairperson is to act in the chairperson's place.

(4) An act or omission of the deputy chairperson acting in the chairperson's place cannot be questioned on the ground that the occasion for acting had not arisen or had ceased.

28. Terms and conditions of appointment

(1) The chairperson may be appointed on a full-time or part-time basis.

(2) An appointed Board member, other than the chairperson, is to be appointed on a part-time basis.

(3) An appointed Board member —

(a) holds office for the period, not exceeding 5 years, specified in the instrument of appointment; and

(b) is eligible for reappointment but cannot hold office for more than 10 consecutive years.

(4) Subject to this Subdivision, an appointed Board member holds office on the terms and conditions of appointment determined by the Premier.

29. Remuneration and expenses

(1) A Board member who is not a government employee is entitled to the remuneration determined by the Premier from time to time on the recommendation of the Public Sector Commissioner.

(2) A Board member may be reimbursed expenses reasonably incurred in the performance of their functions as a Board member, as determined by the Premier from time to time on the recommendation of the Public Sector Commissioner.

30. Casual vacancies

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

(a) dies, resigns under this section 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 under section 45(1) or (2).

(2) An appointed Board member may at any time resign from office by writing signed and given to the Premier.

(3) The resignation takes effect on the later of —

(a) receipt by the Premier;

(b) the day specified in the resignation.

(4) The Governor, on the Premier's recommendation, may suspend or remove an appointed Board member from office —

(a) on the grounds of —

(i) neglect of duty; or

(ii) misconduct or incompetence; or

(iii) mental or physical incapacity, other than temporary illness, impairing the performance of the member's duties; or

(iv) absence, without leave, from 3 consecutive meetings of the Board of which the member has had notice;

or

(b) for any other reasonable cause.

(5) The Premier may remove an appointed Board member who is a government employee on the grounds of —

(a) the member ceasing to be a government employee; or

(b) the member commencing to perform functions that are not, in the Premier's opinion, compatible with their functions as a Board member.

(6) If a Board member is suspended or removed from office under subsection (4), the Premier must cause a statement of the grounds for suspension or removal to be laid before each House of Parliament within 14 days after the day on which the member was suspended or removed.

31. Extension of term of office

(1) If the office of a Board member becomes vacant because the member's term of office expires by effluxion of time, the member continues to be a Board member during that vacancy until the earlier of —

(a) the end of the period of 6 months immediately following the expiry of the term of office;

(b) the vacancy being filled;

(c) the member resigning;

(d) the member being removed from office under section 30.

(2) This section has effect despite the limit in section 28(3)(b).

32. Leave of absence

(1) The Premier may, on any terms and conditions the Premier considers appropriate, grant the chairperson leave to be absent from office.

(2) The chairperson may, on any terms and conditions the chairperson considers appropriate, grant a Board member leave to be absent from office.

33. Alternate members

(1) If a Board member is unable to act, the Premier may appoint another person as an alternate member to act temporarily in the member's place.

(2) Section 26(4) to (8) apply, with the necessary modifications, to the appointment of an alternate member under subsection (1).

(3) Subsection (1) does not apply in relation to the chairperson or an ex-officio Board member.

(4) If the deputy chairperson is acting in the chairperson's place, the Premier may, under subsection (1), appoint another person as an alternate member to act temporarily in the deputy chairperson's place.

(5) While acting in accordance with their appointment, an alternate member is taken to be a Board member and to have the equivalent entitlements (if any) of the Board member in whose place they are acting.

(6) 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 — Board procedures

34. Holding meetings

(1) The first Board meeting is to be convened by the chairperson, and subsequent meetings are to be held at times and places determined by the Board.

(2) The Board is to meet at least 4 times a year.

(3) A special Board meeting —

(a) may be convened by the chairperson at any time; and

(b) must be convened by the chairperson if 3 or more Board members request the chairperson to do so.

35. Quorum

The quorum for a Board meeting is one half of the number of Board members.

36. Balance of members at meetings

A Board meeting cannot proceed if the number of members present who are government employees exceeds the number of members present who are not government employees.

37. Presiding members

(1) The chairperson, if present, must preside at a Board meeting.

(2) If neither the chairperson, nor the deputy chairperson acting as the chairperson, is presiding under subsection (1), the members present at the meeting are to elect one of their number who is not a government employee to preside.

38. Procedure at meetings

The Board is to determine its own meeting procedures to the extent that they are not fixed under this Act.

39. 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.

40. Voting

(1) Each member present at a Board meeting has a deliberative vote unless section 46 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 by a majority of the votes cast.

41. Resolution without meeting

A resolution in writing signed or otherwise assented to by each Board member has the same effect as if it had been passed at a Board meeting, and must be recorded in the minutes of the Board's next meeting.

42. Minutes to be kept

(1) The Board must cause accurate minutes to be kept of the proceedings at each of its meetings.

(2) Without limiting subsection (1), the minutes are to —

(a) record that a member abstained from voting on or voted for or against a resolution if the member so requests; and

(b) include a record of attendance.

43. Committees

(1) The Board may appoint committees to assist it in the performance of its functions, and may alter or discharge any committee so appointed.

(2) Subject to the direction of the Board, a committee may determine its own procedures.

(3) A member of a committee who is not a government employee is entitled to the remuneration determined by the Premier from time to time on the recommendation of the Public Sector Commissioner.

(4) A member of a committee may be reimbursed expenses reasonably incurred in the performance of their functions as a member of the committee, as determined by the Premier from time to time on the recommendation of the Public Sector Commissioner.

Subdivision 3 — Disclosure of interests

44. Financial interest in a matter

For the purposes of this Subdivision, a member of the Board or of a committee has a direct or indirect financial interest in a matter if it is reasonable to expect that the matter may, if dealt with by the Board or committee in a particular way, result in a financial gain, loss, benefit or detriment for the member or a person closely associated with the member.

45. Disclosure of material personal interests

(1) A Board 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 and extent of the interest at a Board meeting.

Penalty for this subsection: a fine of $10 000.

(2) 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 possible after the relevant facts have come to the member's knowledge, disclose the nature and extent of the interest at a committee meeting.

Penalty for this subsection: a fine of $10 000.

(3) Both subsections (1) and (2) apply to a person who is a member of a committee and also a Board member.

(4) If a member of the Board or of a committee has, in the opinion of the person presiding at a meeting of the Board or committee, a material personal interest in a matter being considered or about to be considered by the Board or the committee, the person presiding may call on the member to disclose the nature and extent of the interest and, in default of any such disclosure, may determine that the member has the interest.

(5) A disclosure under subsection (1) or (2) or a determination under subsection (4) must be recorded in the minutes of the meeting.

(6) Infrastructure WA must keep a record of each disclosure or determination under this section that relates to a direct or indirect financial interest in a matter, and make a summary of the record available, on request, for inspection.

(7) Without limiting section 72, the regulations may provide for how the record is to be made available.

46. Participation by interested members

(1) A member of the Board or of a committee who has, or has been determined under section 45(4) to have, a material personal interest in a matter that is being considered by the Board or committee —

(a) must not vote (whether at a meeting or otherwise) on a resolution on the matter; and

(b) must not be present (whether in person or remotely) 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 47(1) in respect of the matter, whether relating to that member or a different member.

47. Section 46 may be declared inapplicable

(1) Section 46 does not apply in relation to a member of the Board or of a committee if —

(a) the member has disclosed an interest in a matter under section 45(1) or (2) or the person presiding at a meeting of the Board or committee has determined that the member has an interest in a matter under section 45(4); and

(b) the Board or committee 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 not significant enough to be likely to unduly influence the member's conduct in considering or voting on the matter.

(2) A resolution cannot be passed under subsection (1)(b) in relation to a member if the interest of the member is a direct or indirect financial interest in the matter.

48. Quorum where section 46 applies

Despite section 35, if a Board member is unable to act in relation to a matter under section 46, a quorum is present during the consideration of the matter if the number of members

present, who are entitled to vote on any motion that may be moved at the meeting in relation to the matter, is —

(a) at least the quorum under section 35, less 1; and

(b) not less than 3.

Division 2 — Staff

Subdivision 1 — CEO

49. CEO

(1) Infrastructure WA is to have a chief executive officer (the ***CEO***).

(2) The CEO is to administer Infrastructure WA's day-to-day operations, subject to the control of the Board.

(3) The CEO is Infrastructure WA's chief employee for the purposes of the *Public Sector Management Act 1994*.

(4) Subsection (3) has effect despite the *Public Sector Management Act 1994* section 44(1).

(5) The CEO is not, and is not to become, a member of the Senior Executive Service within the meaning of the *Public Sector Management Act 1994*.

(6) The Board is the employer of the CEO for the purposes of paragraph (b) of the definition of ***employing authority*** in the *Public Sector Management Act 1994* section 5(1).

50. Appointment of CEO

(1) The CEO is to be appointed by the Governor on the Premier's recommendation.

(2) Before making a recommendation for the purposes of subsection (1), the Premier must —

(a) consult with the Board; and

(b) request the Board to nominate one or more persons for the position of CEO.

(3) Nominations are to be given to the Premier for consideration by Cabinet.

(4) The Premier may make a recommendation for the purposes of subsection (1) whether or not the Board has made a nomination, or a satisfactory nomination, but not before the earlier of —

(a) the Board making a nomination;

(b) the end of the period of 3 months beginning on the day on which the Premier made the request under subsection (2).

(5) The *Public Sector Management Act 1994* section 105 does not prevent the Premier and the Board consulting under subsection (2).

51. Terms and conditions of appointment

(1) The CEO is to be appointed on a full-time basis.

(2) The CEO —

(a) holds office for the period, not exceeding 5 years, specified in the instrument of appointment; and

(b) is eligible for reappointment.

(3) Subject to this Subdivision, the CEO holds office on the terms and conditions of appointment determined by the Board.

52. Remuneration

The CEO is entitled to the remuneration determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975* and, for the purposes of that Act and any other written law, the office of the CEO is taken to be prescribed under section 6(1)(e) of that Act for the purposes of that section.

53. Casual vacancies

(1) The office of CEO becomes vacant if the CEO —

(a) dies, resigns under this section 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 under section 54(1).

(2) The CEO may at any time resign from office by writing signed and given to the chairperson of the Board.

(3) The resignation takes effect on the later of —

(a) receipt by the chairperson;

(b) the day specified in the resignation.

(4) The Governor, on the Premier's recommendation, may suspend or remove the CEO from office —

(a) on the grounds of —

(i) neglect of duty; or

(ii) misconduct or incompetence; or

(iii) mental or physical incapacity, other than temporary illness, impairing the performance of the CEO's duties;

or

(b) for any other reasonable cause.

(5) Before making a recommendation for the purposes of subsection (4), the Premier must consult with the chairperson of the Board.

(6) If the CEO is suspended or removed from office under subsection (4), the Premier must cause a statement of the

grounds for suspension or removal to be laid before each House of Parliament within 14 days after the day on which the CEO was suspended or removed.

(7) The statement in subsection (6) must also include whether the suspension or removal was supported by the chairperson of the Board.

54. Disclosure of material personal interests

(1) If the CEO has a material personal interest in a matter that relates to Infrastructure WA's affairs, the CEO must, as soon as possible after the relevant facts have come to the CEO's knowledge —

(a) disclose the nature and extent of the interest to the Board; and

(b) not take action or further action in relation to the matter unless authorised to do so by the Board.

Penalty for this subsection: a fine of $10 000.

(2) The Board's authorisation may be subject to conditions and restrictions.

(3) If the CEO is unable to act in relation to a matter, the Board may appoint another staff member to act in relation to the matter.

55. Entitlements of public service officer as CEO

(1) If a person occupied an office in the Public Service immediately before being appointed to the office of CEO, the person retains existing and accruing entitlements as if service as the CEO were a continuation of service in the office in the Public Service.

(2) If a person ceases to be the CEO and is appointed to an office in the Public Service, the person's service as the CEO is to be regarded as service in the Public Service for the purposes of determining the person's rights as a public service officer.

56. No outside employment

The CEO must not, without the Board's written approval —

(a) engage in paid employment outside the duties of the office of CEO; or

(b) actively take part in —

(i) the activities of a business; or

(ii) the management of a body corporate carrying on business.

57. Acting CEO

(1) If the CEO is unable to act or the position of CEO is vacant, the Board may appoint a person to act as the CEO.

(2) A person cannot act in the office of CEO for a continuous period of more than 12 months.

(3) Section 49(5) does not limit who may be appointed to act as the CEO.

(4) A person acting as the CEO holds office on the terms and conditions of appointment, including as to remuneration, determined by the Board.

(5) The remuneration of a person acting as the CEO cannot exceed that of the holder of the office or, if the position is vacant, the most recent holder of the office.

(6) An act or omission of a person acting as the CEO cannot be questioned on the ground that the occasion for the appointment or acting had not arisen or had ceased.

Subdivision 2 — Other staff

58. Other staff

(1) Public service officers may be appointed under the *Public Sector Management Act 1994* Part 3 to enable Infrastructure WA to perform its functions.

(2) Infrastructure WA 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 Infrastructure WA to engage a person under a contract for services or appoint a person on a casual employment basis.

59. Use of government staff and facilities

(1) Infrastructure WA 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 a State agency; or

(b) otherwise in the service of the Crown.

(2) Infrastructure WA may by arrangement make use of a State agency's facilities.

(3) An arrangement under subsection (1) or (2) is to be made on terms agreed to by the parties.

Division 3 — Accountability and financial provisions

60. Premier may give directions

(1) The Premier may give written directions to Infrastructure WA about the performance of its functions, and Infrastructure WA must give effect to the directions.

(2) A direction under this section cannot be about the particular performance of a function or relate to the content of any strategy, advice, report, guideline or other document prepared by Infrastructure WA.

(3) The Premier must cause a direction under this section to be laid before each House of Parliament within 14 days after the day on which the direction is given.

(4) The text of a direction under this section must be included in Infrastructure WA's annual report under the *Financial Management Act 2006* Part 5.

61. Premier 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 Premier that relates to Infrastructure WA's functions.

(2) The Premier is entitled —

(a) to have information in Infrastructure WA's possession; 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 Premier may —

(a) request Infrastructure WA to give information to the Premier; and

(b) request Infrastructure WA to give the Premier access to information; and

(c) for the purposes of paragraph (b), make use of Infrastructure WA's staff to obtain the information and give it to the Premier.

(4) Infrastructure WA must comply with a request under subsection (3) and make staff and facilities available to the Premier for obtaining information under subsection (3)(c).

62. 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 relation to Infrastructure WA and its operations.

63. Infrastructure WA's funds

(1) An account called the Infrastructure WA Account is established for Infrastructure WA.

(2) The account is an agency special purpose account under the *Financial Management Act 2006* section 16.

(3) Money received by Infrastructure WA must be credited to, and money paid by Infrastructure WA must be debited to, the account.

(4) The funds available for the purpose of enabling Infrastructure WA to perform its functions consist of money that is lawfully received by, or made available to, Infrastructure WA.

64. Protection for disclosure or compliance with directions

Infrastructure WA or another person performing a function under this Act is not liable —

(a) in respect of any claim arising as a consequence of the disclosure of information or documents under section 61 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.

Part 5 — General

Division 1 — Protection of information

65. Confidentiality

(1) A person must not, directly or indirectly, use or disclose any information obtained by the person because of —

(a) the person's office, position, employment or engagement under or for the purposes of this Act; or

(b) any disclosure made to the person under or for the purposes of this Act.

Penalty for this subsection: a fine of $10 000.

(2) Subsection (1) does not apply in relation to the use or disclosure of information that is already in the public domain.

(3) A person does not commit an offence under subsection (1) if the use or disclosure of the information is authorised under section 66(1).

66. Authorised use or disclosure of information

(1) For the purposes of this Act, the use or disclosure of information is authorised if the information is used or disclosed in good faith in any of the following circumstances —

(a) for the purpose of, or in connection with, performing a function under this or any other Act;

(b) as otherwise authorised or required under or for the purposes of this Act;

(c) under another law;

(d) to a court or other person or body acting judicially in the course of proceedings before the court, person or body;

(e) under an order of a court or other person or body acting judicially;

(f) any other circumstances prescribed for the purposes of this subsection.

(2) If the use or disclosure of information is authorised under subsection (1) —

(a) no civil or criminal liability is incurred in respect of the use or disclosure; and

(b) the use or disclosure is not to be regarded as —

(i) a breach of any duty of confidentiality or secrecy imposed by law; or

(ii) a breach of professional ethics or standards or any principles of conduct applicable to a person's employment; or

(iii) unprofessional conduct.

67. Restrictions on disclosure of sensitive information

(1) In this section —

private sensitive information means sensitive information relating to a person who or that is not a State agency or public authority;

sensitive information means information that has been identified under section 22(3) as being the subject of a duty of confidentiality or secrecy or of a commercially sensitive nature.

(2) This section qualifies section 66(1)(a) and (b).

(3) Infrastructure WA must not make sensitive information publicly available and, without limitation, must not include sensitive information in the following —

(a) a State Infrastructure Strategy;

(b) a summary of a report given to the Premier under section 19;

(c) a report under section 24;

(d) advice or other reports or documents that are to be made publicly available.

(4) The Premier must not make private sensitive information publicly available.

(5) This section does not prevent Infrastructure WA or the Premier from making a document from which sensitive information or private sensitive information has been removed publicly available.

(6) This section does not apply to the extent to which —

(a) the information is already in the public domain; or

(b) the information is in a statistical form that could not reasonably be expected to enable it to be related to the person in relation to whom or which the duty is owed or the information is of a commercially sensitive nature; or

(c) the disclosure of the information is with the consent of each person to whom or which it relates.

Division 2 — Miscellaneous

68. Execution of documents

(1) A document is duly executed by Infrastructure WA if —

(a) Infrastructure WA's common seal is affixed to it in accordance with subsections (2) and (3); or

(b) it is signed on Infrastructure WA's behalf by a person or persons authorised to do so under subsection (4).

(2) Infrastructure WA's common seal is not to be affixed to any document except as authorised by Infrastructure WA.

(3) Infrastructure WA's common seal is to be affixed to a document in the presence of the chairperson of the Board and another Board member, or the chairperson and the CEO, each of whom must sign the document to attest that the common seal was so affixed.

(4) Infrastructure WA may, by writing under its common seal, authorise one or more Board members or one or more staff members to sign documents on Infrastructure WA's behalf, either generally or subject to the conditions or restrictions specified in the authorisation.

(5) A document purporting to be executed in accordance with this section must be presumed to be duly executed unless the contrary is shown.

(6) When a document is produced bearing a seal purporting to be Infrastructure WA's common seal, it must be presumed that the seal is Infrastructure WA's common seal unless the contrary is shown.

69. Protection from liability for wrongdoing

(1) No action or claim for damages lies against a person other than Infrastructure WA 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 Infrastructure WA nor the Crown 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.

70. Making certain things publicly available

A requirement under this Act to make a strategy, response, programme or other thing publicly available may be satisfied by publishing it on a website maintained by or on behalf of the Department of the Premier and Cabinet or Infrastructure WA.

71. Laying documents before Parliament not sitting

(1) If a provision of this Act requires the Premier to cause a document to be laid before a House of Parliament and the House is not sitting, the Premier may give the document to the Clerk of the House.

(2) A document given to the Clerk of a House under subsection (1) is taken to have been laid before the House.

(3) The laying of a document before a House that is taken to have occurred under subsection (2) must be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk receives the document.

72. 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) The regulations may deal with the following —

(a) Infrastructure WA recovering from a State agency —

(i) the costs of it assessing and reporting on a major infrastructure proposal of a State agency;

(ii) the costs of it preparing, at the request of the Premier, a strategy, plan or policy on behalf of a State agency;

(iii) the costs of it providing advice to a State agency on the preparation of an infrastructure proposal;

(b) Infrastructure WA's capacity to exempt a major infrastructure proposal from the application of section 19, including by providing for the circumstances in which an exemption may be given and for conditions to be imposed on exemptions;

(c) matters relating to consultation to be undertaken by Infrastructure WA, including the extent of consultation;

(d) the disclosure of material personal interests for the purposes of Part 4 Division 1 Subdivision 3 or section 54, including by providing for —

(i) what is or is not a material personal interest;

(ii) who is or is not a person closely associated with a member;

(e) matters that are to be included in Infrastructure WA's annual report under the *Financial Management Act 2006* Part 5 in addition to the requirements under that Act.

(3) Regulations made for the purposes of subsection (2)(a) have effect despite anything in the written law under which the agency is established or continued or governed.

73. Review of Act

(1) The Premier must review the operation and effectiveness of this Act, and prepare a report based on the review —

(a) as soon as practicable after the 5th anniversary of the day on which this section comes into operation; and

(b) after that, at intervals of not more than 5 years.

(2) The obligation under subsection (1) is limited to 3 occasions.

(3) The Premier must cause each report to be laid before each House of Parliament as soon as practicable after the report is prepared, but not later than 12 months after the 5th anniversary or the expiry of the period of 5 years (whichever is relevant).

Part 6 — Consequential amendments to other Acts

74. *Constitution Acts Amendment Act 1899* amended

(1) This section amends the *Constitution Acts Amendment Act 1899*.

(2) In Schedule V Part 3 before the item for the board of the Minerals Research Institute of Western Australia insert:

The board of Infrastructure WA established under the *Infrastructure Western Australia Act 2019*.

75. *Financial Management Act 2006* amended

(1) This section amends the *Financial Management Act 2006*.

(2) In Schedule 1 after the item for the Housing Authority insert:

Infrastructure WA

76. *Planning and Development Act 2005* amended

(1) This section amends the *Planning and Development Act 2005*.

(2) Delete Schedule 2 clause 6.

77. *Public Sector Management Act 1994* amended

(1) This section amends the *Public Sector Management Act 1994*.

(2) In Schedule 2 before item 19A insert:

19	Infrastructure WA, established under the *Infrastructure Western Australia Act 2019*

Notes

This is a compilation of the *Infrastructure Western Australia Act 2019* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table.

Compilation table

Short title	Number and year	Assent	Commencement
Infrastructure Western Australia Act 2019	13 of 2019	24 Jun 2019	Pt. 1: 24 Jun 2019 (see s. 2(a)); Act other than Pt. 1, s. 8(1)(b) and Pt. 3 Div. 2 and 3: 24 Jul 2019 (see s. 2(c)); s. 8(1)(b) and Pt. 3 Div. 3: 1 Jan 2022 (see s. 2(b) and SL 2021/145 cl. 2(a)); Pt. 3 Div. 2: 1 Jan 2023 (see s. 2(b) and SL 2021/145 cl. 2(b))
State Development Act 2025 Pt. 8 Div. 3	21 of 2025	19 Dec 2025	19 Feb 2026 (see s. 2(e) and SL 2026/13 cl. 2)

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
appointed Board member	3
assent day	2
Board	3
Board member	3
CEO	3
committee	3
Department of the Premier and Cabinet	3
document	61(1)
employing authority	3
ex-officio Board member	3
government employee	3
Government response	3
government trading enterprise	3
information	61(1)
infrastructure	3
Infrastructure Australia	3
investment decision	19(3)
major infrastructure proposal	3
misconduct	3
private sensitive information	67(1)
public authority	3
Public Sector	3
remuneration	3
sensitive information	67(1)
staff member	3
State agency	3
State Infrastructure Programme	3
State Infrastructure Strategy	3
unable to act	3

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