

# WESTERN AUSTRALIAN LAND AUTHORITY ACT 1992

(No. 35 of 1992)

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## ARRANGEMENT

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Section		Page
<b>PART 1 — PRELIMINARY</b>		
1.	Short title	2
2.	Commencement	2
3.	Objects	2
4.	Interpretation	3
<b>PART 2 — WESTERN AUSTRALIAN LAND AUTHORITY</b>		
<i>Division 1 — Establishment</i>		
5.	Authority established	6
6.	Board of directors	6
7.	Functions of board	7
8.	Remuneration and expenses of directors	7
9.	Protection of directors and officers	7

# Western Australian Land Authority Act 1992

## Division 2 — Staff

Section		Page
10.	Chief executive officer	8
11.	Other staff	8
12.	Officers in Senior Executive Service	9
13.	Use of other government staff etc.	9
14.	Saving in respect of public service officer	9

## PART 3 — FUNCTIONS AND POWERS

15.	Compliance with written laws	10
16.	Functions	10
17.	Powers	11
18.	Joondalup Centre plan	13
19.	Authority to act on commercial principles	13
20.	Compulsory taking of land	13
21.	Dedication of Crown land to purposes of Act	14
22.	Establishment of bodies corporate	15
23.	Delegation	16
24.	Minister may give directions	16
25.	Minister to have access to information	17

## PART 4 — CONDITIONAL DISPOSITION OF LAND

26.	Memorial as to conditional disposition of land	19
27.	Offence to deal with land contrary to restrictions	19
28.	Certain transactions void	20
29.	Exemption for mortgagee exercising power of sale	20
30.	Authority may obtain injunction	21

## PART 5 — FINANCIAL PROVISIONS

31.	Funds of Authority	23
32.	Authority exempt from rates, taxes etc.	24
33.	Investment	24
34.	Borrowing by Authority from Treasurer	24
35.	Borrowing by Authority generally	25
36.	Guarantee by Treasurer	25
37.	Charges for guarantee	27
38.	Distribution of surplus	27
39.	Application of <i>Financial Administration and Audit Act 1985</i>	27

**PART 6 — BY-LAWS**

Section		Page
40.	By-laws in respect of certain land	28
41.	Land for which by-laws may be made	29
42.	Registration of memorial	30
43.	Amendment	31
44.	Minister may disapply this Part to land	31

**PART 7 — MISCELLANEOUS**

45.	Execution of documents	33
46.	Liability of directors, etc. when offence committed by body corporate	33
47.	Regulations	34
48.	Review of Act	34
49.	Consequential amendments	35
50.	Repeals, savings and transitional	35
51.	Transfer of certain assets etc. of WADC	36
52.	Duration of Act	38

**SCHEDULE 1**

**PART A**

**CONSTITUTION AND PROCEEDINGS OF  
DIRECTORS AND BOARD**

1.	Term of office	41
2.	Resignation, removal, etc.	41
3.	Alternate directors	41
4.	Chairperson and deputy chairperson	42
5.	Meetings	42
6.	Committees	43
7.	Resolution may be passed without meeting	43
8.	Leave of absence	43
9.	Board to determine own procedures	44

PART B

DUTIES OF DIRECTORS

Section		Page
1.	Interpretation	44
2.	Conflict of interest	44
3.	Further duties of directors	45
4.	Sanction for breach of clauses 2 and 3	45
5.	Court may grant relief to director	46
6.	Saving	46

SCHEDULE 2

AREA COMPRISING JOONDALUP CENTRE	47
----------------------------------	----

SCHEDULE 3

CONSEQUENTIAL AMENDMENTS	48
--------------------------	----

SCHEDULE 4

TRANSITIONAL AND SAVINGS PROVISIONS

1.	Interpretation	52
2.	Staff	52
3.	Assets, liabilities etc., to vest in Authority	53
4.	Agreements and instruments	54
5.	Registration of documents	54
6.	Funds	55
7.	Particular transitional provisions for <i>Industrial Lands Development Authority Act 1966</i>	55
8.	Guarantees under <i>Joondalup Centre Act 1976</i>	56
9.	Particular transitional provisions for <i>Industrial Development (Resumption of Land) Act 1945</i>	56
10.	Annual report for part of a year	57
11.	Interpretation Act to apply	58

**WESTERN AUSTRALIAN LAND  
AUTHORITY ACT 1992**

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No. 35 of 1992

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**AN ACT to establish an Authority as an agency to provide, or promote the provision of, land, infrastructure, facilities and services for the social and economic needs of the State, to repeal the *Industrial Lands Development Authority Act 1966*, the *Industrial Development (Resumption of Land) Act 1945* and the *Joondalup Centre Act 1976*, and to make amendments to certain other Acts.**

[Assented to 23 June 1992.]

The Parliament of Western Australia enacts as follows:

## PART 1 — PRELIMINARY

### Short title

1. This Act may be cited as the *Western Australian Land Authority Act 1992*.

### Commencement

2. (1) This section and sections 1 and 4 come into operation on the day on which this Act receives the Royal Assent.

(2) The other provisions of this Act come into operation on such day as is fixed by proclamation but in any event shall come into operation not later than 12 months after the date of Royal Assent.

### Objects

3. The objects of this Act are —

- (a) the provision and development of industrial, commercial, residential and other land in a range of localities to meet the social and economic needs of the State;
- (b) the completion of the Joondalup Centre project; and
- (c) the identification and development of other urban and regional centres of population and the provision of infrastructure and facilities for those centres.

## Interpretation

4. In this Act, unless the contrary intention appears —

“**Account**” means the Western Australian Land Authority Account referred to in section 31 (2);

“**acquire**” includes take on lease;

“**alternate director**” means a person appointed as such under clause 3 of Part A of Schedule 1;

“**Authority**” means the Western Australian Land Authority established by section 5 (1);

“**board**” means the board of directors of the Authority provided for by section 6 (1);

“**chairperson**” means the person appointed as such under section 6 (2);

“**chief executive officer**” means the person appointed as such under section 10;

“**committee**” means a committee appointed under clause 6 of Part A of Schedule 1;

“**Crown land**” has the meaning given by the *Land Act 1933*;

“**director**” means a person appointed to be a member of the board and except in section 6 (2) and clauses 1, 2 and 3 of Part A of Schedule 1 includes an alternate director and a member of a committee;

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

“**function**”, except in sections 16 (1) and 17 (1), includes powers, duties and authorities;

**“industrial purposes”** means —

- (a) manufacturing, production, technology advancement, fabrication of materials, packaging, processing, transport, distribution, storage, display of manufactured goods, research, development and service purposes, and the purposes of any other activity of an industrial nature; and
- (b) commercial, recreational, retail, accommodation and other purposes ancillary to purposes referred to in paragraph (a) —
  - (i) effected or to be effected in the same general vicinity as that in which purposes referred to in that paragraph are effected or to be effected; and
  - (ii) necessary or desirable for the wellbeing or convenience of businesses operating, and workforces employed, in the general vicinity referred to in subparagraph (i).

**“land”** includes —

- (a) any legal or equitable estate or interest in land; and
- (b) land, sea-bed and subsoil covered by water, whether continuously or not;

**“local government authority”** means a municipality or regional council within the meaning of the *Local Government Act 1960* or a commissioner appointed under that Act for any such municipality or regional council;

**“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;

**“relevant official”** means —

- (a) in the case of land which is under the operation of the *Transfer of Land Act 1893*, the Registrar of Titles;
- (b) in the case of land which is alienated from the Crown but which is not under the operation of the *Transfer of Land Act 1893*, the Registrar of Deeds and Transfers; or
- (c) in the case of land which is under the operation of the *Land Act 1933*, the chief executive officer of the department principally assisting the Minister to whom the administration of the *Land Act 1933* is for the time being committed by the Governor in the administration of that Act.

## **PART 2 — WESTERN AUSTRALIAN LAND AUTHORITY**

### ***Division 1 — Establishment***

#### **Authority established**

5. (1) A body called the Western Australian Land 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, being —

- (a) an abbreviation or adaptation of the name conferred by subsection (1); or
- (b) a name other than that name.

(5) The Authority is an agent of the Crown in right of the State and, except as provided in section 15, enjoys the status, immunities and privileges of the Crown.

#### **Board of directors**

6. (1) The Authority is to have a board of directors comprising not less than 5 nor more than 7 persons appointed by the Governor on the recommendation of the Minister, of whom five shall be persons each of them having in the opinion of the Minister, knowledge of and experience in any of the fields of town planning, housing, industry, commerce, finance, engineering and land development.

(2) The Minister is to appoint one of the directors to be chairperson and another to be deputy chairperson of the board.

(3) The chief executive officer shall not be appointed as a member of the board.

(4) Schedule 1 has effect with respect to —

- (a) the constitution and proceedings of the directors and the board; and
- (b) the duties of the directors and of the Authority in respect of directors.

### **Functions of board**

7. The board is the Authority's governing body and, in the name of the Authority, is to perform the functions of the Authority under this Act or any other written law.

### **Remuneration and expenses of directors**

8. A director is to be paid out of the funds of the Authority such remuneration and travelling and other allowances as are determined in his or her case by the Minister on the recommendation of the Public Service Commissioner.

### **Protection of directors and officers**

9. (1) A director or any officer of the Authority is not personally liable for any act done or omitted to be done in good faith by the Authority in the performance, or purported performance, of any function under this Act.

(2) Subsection (1) does not —

- (a) limit the operation of Part B of Schedule 1; or

- (b) relieve the Authority of any liability that, but for that subsection, it might have for the acts or omissions of a director or of an officer of the Authority.

### *Division 2 — Staff*

#### **Chief executive officer**

10. (1) Subject to section 12, the Minister —
- (a) is to appoint a chief executive officer of the Authority; and
  - (b) subject to any applicable order, award or agreement under the *Industrial Relations Act 1979*, shall on the recommendation of the Public Service Commissioner, determine the remuneration and other terms and conditions of service of the chief executive officer.
- (2) The function of the chief executive officer is, subject to the control of the board, to administer the day to day operations of the Authority.

#### **Other staff**

11. (1) The Authority may appoint such officers as may be necessary to enable the Authority to perform its functions.
- (2) Subject to section 12 and any applicable order, award or agreement under the *Industrial Relations Act 1979*, the Authority may, but only after consultation with the Public Service Commissioner, determine the remuneration and other terms and conditions of service of persons appointed under subsection (1).
- (3) The Authority may engage under a contract for services or other arrangement such consultants and professional or technical or other assistance as it considers necessary to enable the Authority to perform its functions.

### **Officers in Senior Executive Service**

12. Notwithstanding anything in this Division, if there is, in the case of an officer of the Authority who is a member of the Senior Executive Service (within the meaning of the *Public Service Act 1978*), an inconsistency between this Act and that Act, that Act prevails.

### **Use of other government staff etc.**

13. (1) The Authority may by arrangement make use, either full-time or part-time, of —

- (a) the services of any officer or employee in the Public Service or in a State agency or instrumentality or otherwise in the service of the Crown in right of the State; or
- (b) any facilities of a department of the Public Service or of a State agency or instrumentality.

(2) An arrangement under subsection (1) is to be made between the Authority and the Minister concerned and on such terms as they and the Public Service Commissioner agree.

### **Saving in respect of public service officer**

14. If a person appointed under section 10 or 11 was, immediately before being so appointed, an officer under the *Public Service Act 1978* —

- (a) he or she retains his or her existing and any accruing rights; and
- (b) for the purpose of determining those rights his or her service as such an officer is to be taken into account as if it were service with the Authority.

### **PART 3 — FUNCTIONS AND POWERS**

#### **Compliance with written laws**

15. Subject to section 32, 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.

#### **Functions**

16. (1) The functions of the Authority are —

- (a) to be an agency through which the government provides, or promotes the provision of, land for the social and economic needs of the State;
- (b) for that purpose to hold and deal with land and plan, undertake, provide for, promote and co-ordinate the development of land;
- (c) to continue the development of the Joondalup Centre, in accordance with the plan referred to in section 18, on the land described in Schedule 2; and
- (d) to identify other potential centres of population and use its powers to bring about the provision of infrastructure and facilities for the same.

(2) In subsection (1) —

**“Joondalup Centre”** means the project for the provision of infrastructure and facilities for a centre of population (including infrastructure and facilities for community, cultural, recreational and sporting purposes) that before the commencement of this section was being carried on by the Joondalup Development Corporation under the Act repealed by section 50 (1) (c);

**“land”** includes infrastructure, facilities and services relating to land.

(3) The provision of residential land for the social and economic needs of the State under subsection (1) (a) is limited to —

- (a) the provision of subdivided land at the lower end to the middle range of the market in order to ensure a competitive element in the market; or
- (b) the development of potential residential land for disposal in superlots to ensure that there is a continuous supply of residential land; or
- (c) the provision of subdivided land in those more remote areas of the State where in the opinion of the Minister there is no private developer willing or adequately able to provide that land; or
- (d) the provision of subdivided land for social needs to persons who would otherwise be unable to afford to acquire a home.

## **Powers**

**17.** (1) The Authority may do all things necessary or convenient to be done for or in connection with the performance of its functions.

(2) Without limiting the generality of subsection (1) or the other powers conferred by this Act, the Authority may —

- (a) acquire, manage and dispose of land but only with the approval of the Minister in the case of an acquisition or disposal of land that exceeds \$1 000 000 in value;

- (b) subdivide, amalgamate, improve, develop, alter, and extract minerals from land vested in the Authority or dedicated to the purposes of this Act;
  
- (c) enter into any contract or arrangement with a person, including a public authority or a local government authority, for the doing of anything that the Authority is authorized to do under this Act —
  - (i) by that person; or
  
  - (ii) by the Authority, for that person; or
  
  - (iii) by the Authority and that person on a joint venture basis,

but where the amount to be paid or received by the Authority under a contract or arrangement 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;

- (d) charge fees for services provided to any person, including a Crown agency.

(3) Where the Minister grants an approval under subsection (2), the text of the approval shall be laid before each House of Parliament within 28 sitting days after the day on which the approval is given.

(4) A contract or arrangement under subsection (2) (c) may, with the consent of the owner and the occupier, relate to land that is not vested in the Authority or dedicated to the purposes of this Act.

### **Joondalup Centre plan**

18. (1) The Authority is to perform its functions under section 16 (1) (c) in accordance with the plan for the time being in force under this section.

(2) The plan in force under Part IV of the Act repealed by section 50 (1) (c) immediately before that repeal is continued in force for the purposes of this section, subject to any amendments approved under subsection (4).

(3) The Authority is to —

- (a) keep the plan under review and if requested by the Minister is to review the plan completely; and
- (b) submit any proposed amendment arising out of a review to the Minister for approval.

(4) The Minister may approve a proposed amendment or may approve it with such modifications as the Minister thinks fit.

(5) A copy of the plan for the time being in force is to be kept in the offices of the Authority and is to be available for inspection by the public during office hours free of charge.

### **Authority to act on commercial principles**

19. Subject to any direction given under section 24, the Authority is to perform its functions in accordance with prudent commercial principles.

### **Compulsory taking of land**

20. (1) The provision of land under this Act —

- (a) for industrial purposes; or

- (b) in the performance of the Authority's functions under section 16 (1) (d),

is a public work for the purposes of the *Public Works Act 1902*, and the Authority is to be taken to be a local authority within the meaning of that Act.

(2) In applying the *Public Works Act 1902* for the purposes of this section —

- (a) the expression “**land**” in that Act has the same meaning as it has in section 4 of this Act;
- (b) section 29 of that Act does not apply to land that becomes vested in the Authority by Schedule 4 of this Act being land that was taken or acquired under that Act before the commencement of this Act.

(3) If land referred to in subsection (2) (b) is not required for the public work for which it was taken or acquired, the land may be held or used for some other purpose authorized by this Act if such purpose is one for which the Authority would be entitled to resume the land pursuant to this section.

### **Dedication of Crown land to purposes of Act**

21. (1) The Governor may by notice published in the *Gazette* —

- (a) dedicate any Crown land to the purposes of this Act; and
- (b) cancel any dedication of land made under this subsection,

but may only do so on the recommendation of the Minister and after the Minister has consulted with the Ministers to whom the administration of the *Land Act 1933* and the administration of

the *Mining Act 1978* are for the time being respectively committed by the Governor.

(2) While any land remains dedicated under subsection (1), that land is not to be disposed of otherwise than under the *Land Act 1933* as read with subsection (3).

(3) The Minister to whom the administration of the *Land Act 1933* is for the time being committed by the Governor may dispose of land dedicated under subsection (1) —

- (a) to the Authority; or
- (b) with the consent of the Authority, to a person other than the Authority,

and any such disposition is to be taken to have been effected under that Act.

(4) When land is disposed of under the *Land Act 1933* as read with subsection (3), it ceases to be dedicated under subsection (1).

(5) Any land —

- (a) that has ceased to be dedicated under subsection (1); but
- (b) that has not been disposed of under the *Land Act 1933* as read with subsection (3),

is to be taken to be Crown land.

### **Establishment of bodies corporate**

22. (1) The Authority may, with the approval of the Governor —

- (a) secure the incorporation —
  - (i) under the *Associations Incorporation Act 1987*, of incorporated associations; or

(ii) under the *Corporations Law*, of companies,

to manage and administer residential estates or parks and the like and their precincts;

(b) on such terms and conditions as the Governor determines, become a member of an incorporated association or company referred to in paragraph (a) and perform the functions of such a member.

(2) A director or an officer of the Authority may with the approval of the Authority become —

(a) a member of the committee of an incorporated association; or

(b) a director of a company,

referred to in subsection (1) and may represent the interests of the Authority on that committee or the board of directors of that company.

### **Delegation**

23. The Authority may, by instrument in writing, delegate to a director, a member of the staff of the Authority or a committee the performance of any of the functions of the Authority, other than this power of delegation.

### **Minister may give directions**

24. (1) The Minister may give directions in writing to the Authority with respect to the performance of its functions, either generally or in relation to a particular matter, and the Authority is to give effect to any such direction.

(2) Nothing in this section shall authorise the Minister to give a direction which would require the Authority to act in a

manner which is unlawful or beyond the power of the Authority or for an improper purpose.

(3) The text of any direction given under subsection (1) is to be—

- (a) published in the *Gazette* within 28 days after it is given;
- (b) laid before each House of Parliament within 14 sitting days of that House after such publication; and
- (c) included in the annual report submitted by the accountable authority of the Authority under section 66 of the *Financial Administration and Audit Act 1985*.

(4) The board shall have standing to challenge the validity of a direction by a Minister but shall be entitled pending the resolution of the challenge to act upon it.

### **Minister to have access to information**

25. (1) For the proper conduct of the Minister's public business, the Minister is entitled to have information in the possession of the Authority and to have and retain copies of documents.

(2) For the purposes of subsection (1) the Minister may —

- (a) request the Authority to furnish information to the Minister;
- (b) request the Authority to give the Minister access to information;
- (c) for the purposes of paragraph (b) make use of the staff of the Authority to obtain the information and furnish it to the Minister.

(3) The Authority is to comply with a request under subsection (2) and make its staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.

(4) In this section —

**“document”** includes any data that is recorded or stored mechanically, photographically, or electronically and any tape, disc or other device or medium on which it is recorded or stored;

**“information”** means documents or other information relating to the functions of the Authority being information, as so defined, specified, or of a description specified, by the Minister.

## PART 4 — CONDITIONAL DISPOSITION OF LAND

### Memorial as to conditional disposition of land

26. (1) The Authority may, if it considers it necessary to do so in respect of any land disposed of, or to be disposed of, by it to any person deliver to the relevant official a memorial, in a form approved by that official, relating to any condition or restriction on the disposition, encumbrance or other parting with ownership or possession of the land.

(2) On payment of the appropriate fee, the relevant official is to register that memorial and endorse or note accordingly the relevant registers or records in respect of the land.

(3) While a memorial is registered under subsection (2), the relevant official is not, without the consent in writing of the Minister, to register under the *Transfer of Land Act 1893*, the *Registration of Deeds Act 1856* or the *Land Act 1933*, as the case may require, any instrument affecting the land to which the memorial relates, other than an instrument which effects the disposition by the Authority referred to in subsection (1).

(4) The Authority shall, as soon as is practicable after the land ceases to be subject to the condition or restriction to which the memorial relates, withdraw the memorial by notice delivered to the relevant official in a form approved by that official.

(5) On the withdrawal of a memorial under subsection (4) the relevant official shall cancel the registration of the memorial and endorse or note accordingly the relevant registers or records in respect of the land.

### Offence to deal with land contrary to restrictions

27. A person who has acquired, whether from the Authority or from any other person, any land in respect of which a memorial

is for the time being registered under section 26 shall not without the consent in writing of the Minister —

- (a) enter into any transaction that purports to dispose of, or encumber with any mortgage or other security, or otherwise part with the ownership or possession of that land to any other person; or
- (b) use that land for any purpose other than for the purpose for which it was acquired, or originally acquired, as the case requires, from the Authority.

Penalty: \$5 000 and, in addition, in the case of a contravention of paragraph (b), a daily penalty of \$250 for each day or part of a day during which that offence is continued after notice of that daily penalty has been given in writing by the Minister to the offender.

### **Certain transactions void**

28. (1) If a person contravenes section 27 (a), the disposition, encumbrance or other transaction, and any instrument relating to it, are void and, if the land is held on lease, the lease is liable to forfeiture.

(2) If a mortgagee referred to in section 29 purports to exercise a power of sale or foreclosure conferred by the mortgage without having obtained the approval in writing of the Minister under that section, that sale or foreclosure, and any instrument relating to it, are void.

### **Exemption for mortgagee exercising power of sale**

29. (1) If under section 27 the Minister has given his or her consent to the encumbrance with any mortgage of any land it is not a contravention of that section for the mortgagee of that land, after obtaining the approval in writing of the Minister, to

exercise the power of sale or foreclosure conferred by that mortgage.

(2) The Minister is not to withhold approval under subsection (1) unless he or she is satisfied that the intended exercise of the relevant power of sale or foreclosure is not undertaken in good faith.

### **Authority may obtain injunction**

30. (1) If a person has engaged, is engaged or is proposing to engage in any conduct constituting a contravention of section 27, the Supreme Court may, on the application of the Authority, grant an injunction restraining the person from engaging in that conduct.

(2) Where an application is made under subsection (1), the Court may, if in its opinion it is desirable to do so, before considering the application grant an interim injunction restraining a person from engaging in conduct referred to in that subsection pending the determination of the application.

(3) The Court may rescind or vary an injunction granted under subsection (1) or (2).

(4) Where an application is made for the grant of an injunction restraining a person from engaging in conduct referred to in subsection (1), the power of the Court to grant that injunction may be exercised —

- (a) if the Court is satisfied that the person has engaged in that conduct, whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in that conduct; or
- (b) if it appears to the Court that, should an injunction not be granted, it is likely that the person will engage in that conduct, whether or not the person has previously engaged in that conduct and whether or not

there is an imminent danger of frustration of the purposes of this Act or of substantial damage to any person if the first-mentioned person engages in that conduct.

(5) In granting an injunction under subsection (1) or (2), the Court may make such ancillary orders relating to costs or otherwise as the Court thinks fit.

(6) Nothing in or done under this section affects any prosecution or other proceedings under this Act.

(7) An injunction granted under subsection (1) shall have effect for the period specified by the Court or until further order of the Court.

(8) The Court is not to require the Authority, as a condition of granting an interim injunction under subsection (2), to give any undertakings as to damages.

(9) References in this section to engaging in conduct include references to doing, or refusing or failing to do, any act or thing.

## PART 5 — FINANCIAL PROVISIONS

### Funds of Authority

**31.** (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) fees charged under section 17 (2) (d);
- (c) moneys borrowed by the Authority under section 34 or 35;
- (d) the proceeds of the disposition of land by the Authority;
- (e) rents and other payments derived from land leased by the Authority to others;
- (f) income derived from the investment under section 33 of moneys standing to the credit of the Account; and
- (g) any moneys, other than moneys referred to in paragraphs (a) to (f), lawfully received by, made available to or payable to the Authority.

(2) The funds referred to in subsection (1) shall be paid into and placed to the credit of an account at a bank approved by the Treasurer to be called the “Western Australian Land Authority Account”.

(3) There shall be paid from the moneys from time to time in and standing to the credit of the Account —

- (a) interest on and repayments of moneys borrowed by the Authority under section 34 or 35 and any fees payable in connection with any such borrowing;

- (b) the remuneration and allowances payable to directors, the chief executive officer and other staff of the Authority;
- (c) the expenses of any committee in performing its functions; and
- (d) all other expenditure lawfully incurred by the Authority in performing its functions.

**Authority exempt from rates, taxes etc.**

32. Notwithstanding section 15, 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.

**Investment**

33. 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 money standing to the credit of the Public Bank Account, as constituted under the *Financial Administration and Audit Act 1985*, may lawfully be invested and all income derived from the investment is to be paid to the credit of the Account.

**Borrowing by Authority from Treasurer**

34. (1) The Authority may borrow from the Treasurer such amounts as the Treasurer approves on such terms and conditions relating to repayment and payment of interest as the Treasurer imposes.

(2) The Account and the assets of the Authority are by virtue of this subsection charged with the due performance by the

Authority of obligations arising from any loan made under subsection (1).

### **Borrowing by Authority generally**

**35.** (1) This section is in addition to, and not in derogation from, the provisions of section 34.

(2) The Authority may —

- (a) with the prior approval of the Treasurer in writing and on such terms and conditions as 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 36.

(3) Any moneys borrowed by the Authority under subsection (2) may be raised as one or more loans and in such manner as the Treasurer approves, but the amount of the moneys so borrowed shall not in any one financial year exceed in the aggregate such amount as the Treasurer approves.

### **Guarantee by Treasurer**

**36.** (1) Subject to subsection (2), the Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee, in such form and subject to such terms and conditions as he or she determines, the payment of any moneys payable by the Authority in respect of moneys borrowed by it under section 35.

(2) Any guarantee shall be expressly limited as to the total amount secured thereby and such amount, together with all other guarantees given by the Treasurer and still in effect with respect to the Authority shall not exceed such sum as has been contained

in an approved estimate of amount of guarantees with respect to the Authority.

(3) For the purposes of subsection (2) an approved estimate of guarantees is an estimate which has been Tabled in and approved by resolution of both Houses of Parliament.

(4) The due payment of moneys payable by the Treasurer under a guarantee given under subsection (1) —

(a) is hereby guaranteed by the State; and

(b) shall be made by the Treasurer out of the Consolidated Revenue Fund, which to the extent necessary is appropriated accordingly.

(5) The Account and the assets of the Authority are by virtue of this subsection 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 terms and conditions which the Treasurer determines under that subsection in respect of that guarantee.

(6) The Treasurer shall cause any amounts received or recovered from the Authority or otherwise in respect of a payment made by the Treasurer under a guarantee given under subsection (1) to be paid into the Consolidated Revenue Fund.

(7) The Authority shall, before a guarantee is given by the Treasurer under subsection (1), give to the Treasurer such security as the Treasurer requires and shall execute all such instruments as are necessary for the purpose.

(8) Where a guarantee is given by the Treasurer under subsection (1) the Treasurer shall cause the text of such guarantee to be published in the *Gazette* within 28 days after it is given and laid before each House of Parliament within 14 sitting days of being published.

### **Charges for guarantee**

37. (1) The Treasurer may fix charges to be paid by the Authority to the Treasurer for the benefit of the Consolidated Revenue Fund in respect of a guarantee given under section 36.

(2) Payment of any charges so fixed is to be made at such time or times as the Treasurer determines.

### **Distribution of surplus**

38. (1) The board, as soon as is practicable after the end of each financial year, is to make a recommendation to the Minister as to the amount of the surplus (if any) that the board recommends as being appropriate to be paid by the Authority to the Treasurer for that financial year.

(2) The Minister, with the concurrence of the Treasurer, may fix the amount of any surplus to be paid by —

- (a) agreeing to an amount (if any) recommended under subsection (1); or
- (b) determining the amount that is to be paid.

(3) The Authority is to pay any surplus so fixed to the Treasurer at such time or times as the Treasurer specifies.

### **Application of *Financial Administration and Audit Act 1985***

39. 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.

## PART 6 — BY-LAWS

### By-laws in respect of certain land

40. (1) The Authority may, with the approval of the Minister, make by-laws in respect of the development, management and use of land to which this section applies.

(2) Without limiting the generality of subsection (1), by-laws made under that subsection may —

- (a) create offences and provide in respect of any such offence a penalty not exceeding \$5 000;
- (b) provide that, if the act or omission giving rise to an offence referred to in paragraph (a) has caused damage to, or a lack of maintenance or repair of, property, the damage or lack of maintenance or repair may be made good and the cost of doing so may be recovered from the offender;
- (c) require compliance with building design and construction standards, and with building maintenance or repair standards, specified in the by-laws or in any standard, rule, code or specification referred to in paragraph (f) (ii);
- (d) require the maintenance, repair and development of land, including —
  - (i) landscaping, environmental management and fencing;
  - (ii) the placing of signs and the control of vehicle parking; and
  - (iii) the disposal of waste and litter;

- (e) subject to —
  - (i) the *Associations Incorporation Act 1987*, determine, wholly or in part, the content of the rules of an incorporated association; or
  - (ii) the *Corporations Law*, determine, wholly or in part, the content of the memorandum and articles of a company,  
  
the incorporation of which is to be or has been secured by the Authority; and
- (f) adopt, either wholly or in part or with modifications and either specifically or by reference —
  - (i) any subsidiary legislation; or
  - (ii) any of the standards, rules, codes or specifications of the body known as the Standards Association of Australia,  
  
whether as in force at the time of their adoption or as amended from time to time.

**Land for which by-laws may be made**

41. Section 40 applies to a piece of land —
- (a) that has been disposed of by the Authority under this Act, if before it did so the Authority delivered for registration a memorial under section 42;
  - (b) that has been disposed of by the Authority under this Act where —
    - (i) the disposition was effected less than 7 days after its acquisition by the Authority;

- (ii) the disposition was not effected at law by registration under the *Transfer of Land Act 1893* or the *Land Act 1933*;
  - (iii) the instrument by which that disposition was effected stated that the Authority would or might make by-laws under section 40 in respect of that piece of land; and
  - (iv) the Authority delivered a memorial for registration under section 42 within 7 days after that disposition;
- (c) that was disposed of under the Act repealed by section 50 (1) (a), if the instrument by which that disposition was effected stated that by-laws (being by-laws of the kind capable of being made under section 40) might be made under an Act to be enacted in substitution for the Act so repealed in respect of that piece of land, and within 3 months after the commencement of this section the Authority delivered a memorial for registration under section 42.

### **Registration of memorial**

42. (1) A memorial may be delivered to the relevant official stating that by-laws may be made under this Part in respect of a piece of land.

(2) A memorial shall be in a form approved by the relevant official.

(3) The relevant official, on receipt of a memorial delivered under subsection (1) and on payment of the appropriate fee, is to register that memorial and endorse or note accordingly the relevant registers or records in respect of the piece of land concerned.

(4) Where —

- (a) a piece of land is under the operation of the *Land Act 1933*;
- (b) a memorial is registered under subsection (3) in respect of that land; and
- (c) the Authority becomes entitled to a Crown grant in fee simple of that land,

the memorial by virtue of this subsection applies to that Crown grant and to that piece of land in all respects as if that Crown grant had been referred to in the memorial.

(5) Where subsection (4) applies, a memorandum of the memorial is to be endorsed or noted by the Registrar of Titles as an encumbrance on the Crown grant and in the relevant registers or records on his registering the Crown grant, and a memorandum stating that the memorial applies to the Crown grant shall also be made by the Registrar of Titles on the memorial.

### **Amendment**

43. If a memorial is registered under section 42 in respect of a piece of land and the land is subject to by-laws under this Part, nothing in this Part prevents an amendment of those by-laws having effect in respect of that piece of land.

### **Minister may disapply this Part to land**

44. (1) The Minister may, in respect of a piece of land, by order —
- (a) published in the *Gazette*;
  - (b) delivered to the relevant official; and

- (c) served on the Authority and, if the Authority is not the owner of that piece of land, on the owner and any lessee of the land,

not less than 14 days before the day fixed by that order, declare that this Part does not apply to the land and by-laws are not to be made under this Part in respect of, or if so made no longer apply to, that piece of land on and after that day.

(2) On, or as soon as is practicable after, the day fixed by an order made under subsection (1) in respect of a piece of land, the relevant official is to cancel the registration of the memorial registered under section 42 (3) in respect of that piece of land and endorse or note accordingly the relevant registers or records in respect of that piece of land.

**PART 7 — MISCELLANEOUS**

**Execution of documents**

45. (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 persons authorized by the board to do so.
- (3) The common seal of the Authority is not to be affixed to any document except as authorized by the board.
- (4) The common seal of the Authority is to be affixed to a document in the presence of such persons and such number of persons as are determined by the Authority, and each of them is to sign the document to attest that the common seal was so affixed.
- (5) A person authorized or determined under subsection (2) (b) is to be a director or an officer of the Authority.
- (6) A document purporting to be executed in accordance with this section is to be taken to be duly executed until the contrary is shown.
- (7) All courts and persons acting judicially are to take notice of the common seal of the Authority.

**Liability of directors, etc. when offence  
committed by body corporate**

46. If a body corporate is guilty of an offence under section 27 or under subsidiary legislation made under this Act, every

director or other officer concerned in the management of the body corporate is guilty of the like offence unless he or she proves that —

- (a) the offence was committed without his or her consent; and
- (b) he or she exercised all such due diligence to prevent the commission of the offence as ought to have been exercised, having regard to the nature of his or her functions in that capacity and to all the circumstances.

### **Regulations**

47. (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 create offences and provide in respect of any such offence a penalty not exceeding \$5 000.

(3) To the extent that there is an inconsistency between a provision of by-laws made under section 40 and a provision of regulations made under this section, the latter provision shall prevail.

### **Review of Act**

48. (1) The Minister shall 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 any event not later than 1 year after that expiration, and in the course of that review the Minister shall 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

- (c) such other matters as appear to him or her to be relevant to the operation and effectiveness of this Act.

(2) The Minister shall prepare a report based on his or her review made under subsection (1) and shall, as soon as is practicable after the preparation thereof, cause the report to be laid before each House of Parliament.

### **Consequential amendments**

49. The Acts referred to in the first column of Schedule 3 are amended in the manner set out in the second column of that Schedule.

### **Repeals, savings and transitional**

50. (1) The following Acts are repealed —

- (a) the *Industrial Lands Development Authority Act 1966\**;
- (b) the *Industrial Development (Resumption of Land) Act 1945\*\**;
- (c) the *Joondalup Centre Act 1976\*\*\**.

(2) Schedule 4 has effect for the purpose of the transition to the provisions of this Act from those of the Acts repealed by subsection (1).

[\* *Reprinted as approved 12 March 1981 and amended by Acts Nos. 63 of 1981, 57 and 98 of 1985, 32 of 1987 and 52 of 1990.*

\*\* *Reprinted as approved 25 July 1962 and amended by Acts Nos. 63 of 1981 and 57 of 1985.*

\*\*\* *Act No. 88 of 1976; amended by Acts Nos. 11 and 98 of 1985, 113 of 1987 and 5 of 1989.*]

**Transfer of certain assets etc. of WADC**

51. (1) The Authority may agree to acquire property from the WADC if it is of the opinion that such property is suitable for its functions in respect of residential land.

(2) The price of such property shall be the sum agreed by the Authority and WADC as being the market value of the property and being —

- (a) in the case of land, not greater than an amount certified by a licensed valuer as being the value of the land, less the agreed value of any liabilities relating to the land; and
- (b) in the case of any other property not greater than the depreciated value of the property as carried in the accounts of the WADC.

(3) If the liabilities relating to any land agreed to be acquired under subsection (1) exceed the value of the land, the WADC is liable to the Authority for the amount of the difference.

(4) Any amount owing by the Authority to the WADC by operation of this section is payable by the Authority on demand by the WADC; but the WADC is not to make such demand unless the Minister consents to its doing so.

(5) If at the time when all WADC assets have been converted into money there is any debt owing by the Authority to the WADC by operation of this section, the Minister to whom the administration of the *Western Australian Development Corporation Act 1983* is committed by the Governor may by instrument cancel that debt.

(6) The Ministers shall by order published in the *Gazette* allocate to the Authority the property agreed to be acquired under subsection (1) and, in the case of land, the liabilities of the WADC relating to that land; and shall include in the order a

sufficient description to enable the property and liabilities to be identified.

(7) On the publication of an order under subsection (6) —

- (a) the property to which the order relates vests in the Authority together with all claims, rights and remedies that the WADC had in respect of the property;
- (b) the Authority becomes liable to pay, bear or discharge all the liabilities that are allocated under the order; and
- (c) the Authority is to take delivery of all registers, papers, documents, minutes, receipts, books of account and other records (however compiled, recorded or stored) relating to the operations of the WADC so far as the records relate to property or liabilities allocated to the Authority under the order.

(8) The transfer of any liability of the WADC under this section to the Authority does not affect any guarantee under section 21 of the *Western Australian Development Corporation Act 1983* in force immediately before the transfer and subsection (2) of section 21 of that Act is to be taken to continue to apply after that transfer and notwithstanding that that subsection may be repealed.

(9) Any agreement or instrument subsisting immediately before the publication of an order under this section to which the WADC was a party or which contains a reference to the WADC or a trading name used by the WADC has effect after that publication as if —

- (a) the Authority were substituted for the WADC as a party to the agreement or instrument; and

- (b) any reference in the agreement or instrument to the WADC were (unless the context otherwise requires) a reference to the Authority,

but in this subsection “WADC” means the WADC only in relation to agreements or instruments in respect of any property or liability allocated to the Authority under this section.

(10) Any legal or other proceedings or any remedies that might, but for this section, have been commenced, continued, discontinued or available by or against or to the WADC in relation to any property or liability allocated to the Authority under this section, may be commenced, continued, discontinued, and shall be available, by or against or to the Authority.

(11) In this section —

“**Ministers**” means the Ministers to whom the administration of this Act and the *Western Australian Development Corporation Act 1983* are respectively committed by the Governor, acting jointly;

“**property**” and “**liabilities**” have the respective meanings assigned by clause 1 of Schedule 4;

“**WADC**” means the Western Australian Development Corporation established by the *Western Australian Development Corporation Act 1983*.

### **Duration of Act**

52. (1) This Act shall, subject to this section, continue in operation until 31 December 1997 and no longer.

(2) On the expiry of this Act by virtue of subsection (1) —

- (a) all real and personal property and every right or interest therein that immediately before that expiry

was vested in the Authority shall without any transfer or assignment pass to and become vested in the Minister;

- (b) all rights, liabilities and obligations of the Authority that were in existence immediately before that expiry shall devolve on the Minister;
- (c) all contracts, agreements and undertakings made by and with the Authority and having effect immediately before that expiry shall have effect as contracts, agreements and undertakings made by and with the Minister and may be enforced by or against the Minister 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 shall be available, by or against or to the Minister, as the case requires,

for the purpose of the winding up of the affairs of the Authority and the Minister shall as soon as is practicable after that expiry wind up the affairs of the Authority.

(3) For the purposes of this section a reference to the Authority in —

- (a) a law of the State in force; or
- (b) a document in existence,

immediately before the expiry of this Act by virtue of subsection (1) shall after that expiry be construed as a reference to the Minister.

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

- (a) given by the Treasurer under section 36 in respect of any money borrowed by the Authority under this Act; and

- (b) in force immediately before the expiry of this Act by virtue of subsection (1),

and section 36 shall continue to apply to that guarantee while that guarantee remains in force as if this section had not come into operation.

**SCHEDULE 1**

(section 6 (4))

**PART A**

**CONSTITUTION AND PROCEEDINGS OF DIRECTORS AND BOARD**

**Term of office**

1. (1) Except as otherwise provided by this Act, a director holds office for such term, not exceeding 3 years, as is specified in the instrument of his or her appointment, but may from time to time be re-appointed.

(2) A director, unless he or she sooner resigns, is removed from office or his or her office becomes vacant under clause 2 (b), continues in office until his or her successor comes into office, notwithstanding that the term for which he or she was appointed may have expired.

**Resignation, removal, etc.**

2. The office of a director becomes vacant if he or she —

- (a) resigns the office by written notice addressed to the Minister;
- (b) is an insolvent under administration within the meaning of the *Corporations Law*;
- (c) is removed from office by the Minister on the grounds of neglect of duty, misbehaviour, incompetence or mental or physical incapacity impairing the performance of his or her duties and proved to the satisfaction of the Minister.

**Alternate directors**

3. (1) Where a director other than the chairperson is unable to act by reason of sickness, absence or other cause the Minister may appoint another person to act temporarily in his or her place, and while so acting according to the tenor of his or her appointment that other person is to be taken to be a director.

(2) Where the director who is deputy chairperson is performing the functions of the chairperson, the Minister may, under subclause (1), appoint another person to act in his or her place as director.

(3) No act or omission of a person acting in place of another under this clause is to be questioned on the ground that the occasion for his or her appointment or acting had not arisen or had ceased.

(4) The appointment of a person as an alternate director may be terminated at any time by the Minister.

### **Chairperson and deputy chairperson**

4. (1) The office of chairperson or deputy chairperson becomes vacant if —

- (a) the person holding the office resigns the office by notice in writing to the Minister;
- (b) the person holding the office ceases to be a director; 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 by reason of sickness, absence or other cause, the deputy chairperson is to perform the functions of the chairperson.

(3) No act or omission of the deputy chairperson acting as the chairperson is to be questioned on the ground that the occasion for his or her so acting had not arisen or had ceased.

### **Meetings**

5. (1) The first meeting of the board is to be convened by the chairperson and, subject to subclause (2), subsequent meetings are to be held at such times and places as the board determines.

(2) A special meeting of the board may at any time be convened by the chairperson.

(3) The chairperson is to 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 directors present are to appoint one of their number to preside.

(5) A quorum for a meeting of the board is a simple majority of directors.

(6) Questions arising at a meeting of the board are to be decided by a majority of the votes of the directors present.

(7) If the votes of the directors present at a meeting and voting on a question are equally divided, the chairperson, deputy chairperson or other person presiding is to have a casting vote in addition to his or her deliberative vote.

(8) The board is to cause accurate minutes to be kept of the proceedings at its meetings.

### **Committees**

6. (1) The board may from time to time appoint committees of such directors, or such directors and other persons, as it thinks fit and may discharge or alter any committee so appointed.

(2) Subject to the directions of the board and to the terms of any delegation under section 23, each committee may determine its own procedures.

### **Resolution may be passed without meeting**

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

### **Leave of absence**

8. The board may grant leave of absence to a director on such terms and conditions as the board thinks fit.

**Board to determine own procedures**

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

**PART B**

**DUTIES OF DIRECTORS.**

**Interpretation**

1. (1) In this Part “near relative”, in relation to a director, means a spouse, parent or child of the director.

(2) In the application of this Part to members of a committee, references to the board are to be read as references to that committee.

**Conflict of interest**

2. (1) Subject to subclause (3), a director who has a direct or indirect pecuniary interest in a proposal before the board —

- (a) is to disclose the nature of that interest to the board as soon as he or she becomes aware of that proposal; and
- (b) is not to take part in any deliberation or decision of the board in respect of that proposal.

(2) Without limiting the generality of subclause (1), a director is to be taken to have a direct or indirect pecuniary interest in a proposal for the purposes of that subclause if his or her near relative has such an interest.

(3) No disclosure is required under subclause (1) in respect of an interest that —

- (a) arises because the director concerned or his or her near relative has a shareholding (not being a substantial shareholding within the meaning of Division 4 of Part 6.7 of the *Corporations Law*) in a public company; and

- (b) is shared in common with the other shareholders in the public company referred to in paragraph (a).

(4) A disclosure made under this clause is to be recorded in the minutes of the board.

(5) If a director discloses his or her interest in a proposal under this clause, or his or her interest in a proposal is not such as need be disclosed under this clause, a transaction resulting from the proposal is not liable to be avoided on any ground arising from the fiduciary relationship between the director and the Authority.

### **Further duties of directors**

3. (1) A director is at all times required to act honestly and diligently in performing his or her functions under this Act.

(2) A director is not to disclose any information acquired by virtue of the performance of any function of the director unless the disclosure is made —

- (a) in connection with the carrying out of this Act or under a legal duty; or
- (b) for the purposes of any proceedings arising out of this Act or any report of such proceedings.

(3) A director is not to make use of any information acquired by virtue of the performance of his or her functions to gain directly or indirectly an improper advantage to himself or herself or to cause detriment to the Authority.

### **Sanction for breach of clauses 2 and 3**

4. A director who commits a breach of any provision of clause 2 or 3 —

- (a) is liable to the Authority for any profit made by him or her or for any damage suffered by the Authority as a result of the breach of that provision; and

- (b) commits an offence against this Act and is liable to a fine of \$5 000.

### **Court may grant relief to director**

5. (1) If, in any civil proceeding against a director for a breach of any provision of clause 2 or 3, it appears to the court before which the proceeding is taken that —

- (a) the director is or may be liable in respect of the breach; but
- (b) the director has acted honestly and that, having regard to all the circumstances of the case, including those connected with the director's appointment, the director ought fairly to be excused for the breach,

the court may relieve the director either wholly or partly from liability on such terms as the court thinks fit.

(2) Where a director has reason to believe that any claim will or might be made against the director in respect of any breach referred to in subclause (1) the director may apply to the Supreme Court for relief, and the Court has the same power to relieve the person as it would have had under subclause (1) if it had been a court before which proceedings against the director for the breach had been brought.

(3) Where a case to which subclause (1) applies is being tried by a judge with a jury, the judge after hearing the evidence may, if he or she is satisfied that the defendant ought under that subclause to be relieved either wholly or partly from the liability sought to be enforced against the director, withdraw the case in whole or in part from the jury and forthwith direct judgment to be entered for the defendant on such terms as to costs or otherwise as the judge thinks proper.

### **Saving**

6. The provisions of this Part are in addition to and not in derogation of any other law relating to the duty or liability of the holder of a public office.

**SCHEDULE 2**

(section 16 (1) (c))

**AREA COMPRISING JOONDALUP CENTRE**

All that portion of land bounded by lines starting at the western corner of Swan Location 7898 and extending westerly and northerly along boundaries of Location 3324 and onwards to a point situate 200 metres north of the northern side of Road Number 3590; thence north-easterly to a point on the western boundary of the northern severance of Location 3323, situate 300 metres from the northern side of Road Number 3590; thence north-easterly to a point on the eastern boundary of the northern severance of Location 3323, situate 150 metres from the northern side of Road Number 3590; thence north-easterly to the north-western corner of Lot 4 of Location 1149; as shown on Land Titles Office Diagram 40753; thence southerly along the easternmost boundary of Perthshire Location 107 to a northern boundary of Class A Reserve 31048; thence generally north-westerly, generally south-easterly, westerly and again generally south-easterly along boundaries of that reserve to the south-eastern corner of Swan Location 2734; thence south-westerly 475.8 metres along the south-easterly boundary of that location; thence 204 degrees 20 minutes, 14.43 metres; thence 211 degrees 29 minutes, 63.709 metres; thence 218 degrees 39 minutes, 63.709 metres; thence 225 degrees 49 minutes, 63.709 metres; thence 232 degrees 55 minutes, 63.522 metres; thence 237 degrees 53 minutes, 46.984 metres to the northern-most south-western boundary of Perthshire Location 101, as shown on Main Roads Department Plan 7631-305-1; thence south-easterly and south-westerly along boundaries of that location and onwards to the southern side of Mullaloo Drive; thence generally south-westerly along that side to the northern-most north-western corner of Swan Location 8278; thence north-easterly to and along the north-western boundary of Location 7811 to the south-eastern corner of Lot 1 of Location 1370, as shown on Land Titles Office Diagram 50288; thence generally westerly along southern boundaries of that lot to the prolongation south-westerly of the north-western boundary of Lot 597, as shown on Land Titles Office Plan 10951; thence north-easterly to and north-easterly and north-westerly along boundaries of that lot to a north-easterly boundary of Location 1370; thence north-westerly along that boundary to the starting point, as shown on Town Planning Department Plan 2.0169.

SCHEDULE 3

(section 49)

CONSEQUENTIAL AMENDMENTS

Short title of Act	Amendment
1. <i>Constitution Acts Amendment Act 1899</i>	In Schedule V, in Part 3 —  (a) delete the item relating to the Joondalup Development Corporation; and  (b) insert in the appropriate alphabetical position the following —  “ The board of directors of the Western Australian Land Authority constituted under the <i>Western Australian Land Authority Act 1992</i> . ”
2. <i>Parliamentary Commissioner Act 1971</i>	In the Schedule —  (a) delete the items relating to the Joondalup Development Corporation and The Land Resumptions for Industries Committee; and  (b) insert in the appropriate alphabetical position the following —

“ Western  
Australian Land  
Authority  
established by the  
*Western  
Australian Land  
Authority Act  
1992.* ”.

3. *Public Service Act  
1978*

In the Schedule —

- (a) delete item 13; and
- (b) insert after item 48 the following —

“ 48A. Western  
Australian Land  
Authority  
established by the  
*Western  
Australian Land  
Authority Act  
1992.* ”.

4. *Financial  
Administration and  
Audit Act 1985*

In Schedule 1 —

- (a) delete the items relating to the Joondalup Development Corporation and the Industrial Lands Development Authority; and
- (b) insert in the appropriate alphabetical position the following —

“ Western  
Australian Land  
Authority ”.

5. *Government Employees Superannuation Act 1987* In Schedule 1 —
- (a) delete the items relating to the Joondalup Development Corporation and the Industrial Lands Development Authority; and
  - (b) in Part B, insert in the appropriate alphabetical position the following —
    - “ Western Australian Land Authority ”.
6. *Mining Act 1978* In section 24 —
- (a) in subsection (1) insert after paragraph (f) the following —
    - “ (fa) land dedicated under section 21 of the *Western Australian Land Authority Act 1992* or vested in or under the control of the Western Australian Land Authority established by that Act; ”;
- and
- (b) in subsection (7) (a) insert after “(1) (e), (f)” the following —
    - “ , (fa) ”.

7. *Industrial Relations Act 1979* In Schedule 2, delete the item relating to the Joondalup Development Corporation.

**SCHEDULE 4**

(section 50 (2))

**TRANSITIONAL AND SAVINGS PROVISIONS**

**Interpretation**

1. In this Schedule, unless the contrary intention appears —

**“commencement day”** means the day on which section 50 comes into operation;

**“former body”** means the Industrial Lands Development Authority established by the Act repealed by subsection (1) (a) of section 50 and the Joondalup Development Corporation provided for by the Act repealed by subsection (1) (c) of that section;

**“liability”** includes any obligation, claim or demand, present or future, certain or contingent, ascertained or sounding only in damages;

**“property”** means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description and includes things in action and a power of disposition over property.

**Staff**

2. (1) All persons who were employed or engaged by a former body immediately before the commencement day are to be taken to be employed or engaged by the Authority under section 11 on the same terms and conditions, including the salary payable, as those on which they were employed or engaged immediately before the commencement day.

(2) Subclause (1) applies to the General Manager holding office immediately before the commencement day under section 31 of the Act repealed by section 50 (1) (c) but after the commencement day he or she does not by virtue of that subclause become the chief executive officer of the Authority.

(3) On the publication of an order under section 51 such persons as the Minister determines who were employed or engaged immediately before that publication under section 15 of the *Western Australian Development Corporation Act 1983* in performing duties relating exclusively to property allocated to the Authority under that order are to be taken to have been employed or engaged by the Authority under section 11 on the same terms and conditions, including the salary payable, as those on which they were employed immediately before the publication of the order.

(4) A person to whom subclause (1) or (3) applies retains all his or her existing and accruing rights (including rights under the *Superannuation and Family Benefits Act 1938*) as if his or her employment or engagement under this Act were a continuation of his or her employment or engagement immediately before the commencement day.

(5) Nothing in this clause prevents the exercise by the Authority after the commencement day of its powers in relation to the management of the staff of the Authority.

### **Assets, liabilities etc., to vest in Authority**

3. (1) On the commencement day —

(a) any property, whether within or outside the State, which was vested in a former body or, to which a former body was entitled immediately before that day vests in the Authority together with all claims, rights and remedies that the former body then had in respect of the property;

(b) the Authority becomes liable to pay, bear or discharge all the liabilities of a former body that are properly payable;

and

(c) the Authority is to take delivery of all registers, papers, documents, minutes, receipts, books of account and other records (however compiled, recorded or stored) relating to the operations of a former body.

(2) Anything commenced by a former body before the commencement day may be continued by the Authority, so far as it is authorized by this Act.

#### **Agreements and instruments**

4. Any agreement or instrument subsisting immediately before the commencement day —

(a) to which a former body was a party;

or

(b) which contains a reference to a former body,

has effect after that day as if —

(c) the Authority were substituted for the former body as a party to the agreement or instrument; and

(d) any reference in the agreement or instrument to a former body were (unless the context otherwise requires) a reference to the Authority.

#### **Registration of documents**

5. (1) The Registrar of Titles, the Registrar of Deeds, the Ministers respectively administering the *Land Act 1933* and the *Mining Act 1978*, and any other person authorized by a written law to record and give effect to the registration of documents relating to transactions affecting any estate or interest in land or other property, are to take note of the provisions of this Schedule and section 51 and are empowered to record and register in the appropriate manner such of those documents as are necessary to give effect to this Schedule and section 51.

(2) Without limiting subclause (1) a statement in an instrument executed by the Authority that any estate or interest in land or other property has become vested in it under this Schedule or section 51 is evidence of that fact.

## Funds

6. On the commencement day the fund under section 6B of the *Industrial Lands Development Authority Act 1966* and the account under section 41 (2) of the *Joondalup Centre Act 1976* are to be closed and the moneys placed to the credit of the Account referred to in section 31 (2) of this Act.

## Particular transitional provisions for *Industrial Lands Development Authority Act 1966*

7. (1) In this clause “the repealed Act” means the *Industrial Lands Development Authority Act 1966*.

(2) On and after the commencement day, the matters referred to in subclause (3) continue to be governed by the repealed Act (except section 14), notwithstanding its repeal, but —

- (a) the functions under that Act are to be performed, for the purposes of this clause, by the Authority established under this Act; and
- (b) references in that Act to the Fund are to be read as references to the Account referred to in section 31 (2).

(3) Those matters are —

- (a) land to which section 7B (1) of the repealed Act applied immediately before the commencement day other than such land as is freehold land under the *Transfer of Land Act 1893* unless in respect of such last-mentioned land —
    - (i) a memorial remained registered under section 7D (1) of the repealed Act on the commencement day;
- or;
- (ii) immediately before the commencement day, a caveat under Part V of the *Transfer of Land Act 1893* by the *Industrial Lands Development Authority* or its predecessors or the relevant Minister or a caveat under section 182 (iii) of the *Transfer of Land Act 1893* by the Registrar of Titles was in force.

- (b) any memorial that remained registered under section 7D (1) of the repealed Act on the commencement day in respect of land under the operation of the *Transfer of Land Act 1893*;
- (c) any injunction or interim injunction granted under section 8 of the repealed Act and in force immediately before the commencement day;
- (d) any land referred to in —
  - (i) Part V of the Schedule to the repealed Act and not acquired by or transferred to the Industrial Lands Development Authority; or
  - (ii) Part VI of the Schedule to the repealed Act and not acquired by or transferred to that Authority from the State Planning Commission,under section 12A of the repealed Act before the commencement day;
- (e) any advance made, or guarantee given, by the Treasurer under section 13 of the repealed Act and not repaid, or still in force, as the case may be, immediately before the commencement day.

(4) For the purposes of subclause (3) (e), section 13 (3) of the repealed Act is to be taken to continue to apply after the commencement day notwithstanding the repeal.

#### **Guarantees under *Joondalup Centre Act 1976***

8. The repeal of the *Joondalup Centre Act 1976* by section 50 (1) (c) does not affect any guarantee under section 43 of that Act in force immediately before the commencement day and section 43 (8) of that Act is to be taken to continue in force for the purposes of this clause.

#### **Particular transitional provisions for *Industrial Development (Resumption of Land) Act 1945***

9. (1) In this clause “the repealed Act” means the *Industrial Development (Resumption of Land) Act 1945*.

(2) Land that was, immediately before the commencement day, dedicated under section 11 of the repealed Act is to be taken, on and after that day, to be land dedicated under section 21 of this Act.

(3) If a person was, immediately before the commencement day, a proprietor, purchaser or lessee of land to whom section 13 of the repealed Act applied, that section continues, after that day, to apply to the person while he or she continues to be the proprietor, purchaser or lessee of the land in question.

(4) All land —

(a) to which section 14 of the repealed Act applied immediately before the commencement day; and

(b) in respect of which immediately before that day a caveat under Part V of the *Transfer of Land Act 1893* by the Industrial Lands Development Authority or its predecessors or the relevant Minister or a caveat under section 182 (iii) of the *Transfer of Land Act 1893* by the Registrar of Titles was in force,

shall on the commencement day be taken to be land in respect of which a memorial is for the time being registered under section 26 of this Act.

(5) Any such caveat shall on and after the commencement day be deemed to be a memorial registered under section 26 in respect of that land and to have ceased to be a caveat in force under Part V or section 188 (iii) of the *Transfer of Land Act 1893*.

#### **Annual report for part of a year**

10. (1) The “accountable authority”, within the meaning in the *Financial Administration and Audit Act 1985*, of a former body is to report in respect of that body as required by section 66 of that Act, but limited to the period from the preceding 1 July to the commencement day, and Division 14 of Part II of that Act applies as if that period were a full financial year.

(2) A former body and its accountable authority as constituted immediately before the commencement day continues in existence for the purpose of subclause (1) and for that purpose only.

(3) The Authority is to arrange for the provision of such clerical and other assistance as is reasonably required for the purpose of subclause (1).

**Interpretation Act to apply**

11. With respect to the repeals effected by section 50, this Act is supplementary to, and does not displace the operation of, the *Interpretation Act 1984*.

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