

Western Australia

Perry Lakes Redevelopment Act 2005

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Perry Lakes Redevelopment Act 2005

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Western Australia

Perry Lakes Redevelopment Act 2005

An Act to provide for the resumption and redevelopment of certain land at Perry Lakes, and for related purposes.

Part 1 — Preliminary

1. Short title

This is the *Perry Lakes Redevelopment Act 2005*.

2. Commencement

- (1) Subject to this section, this Act comes into operation on the day on which it receives the Royal Assent.
- (2) Part 3 comes into operation on resumption day.
- (3) Section 53 comes into operation immediately after the *Planning and Development Act 2005* comes into operation.

3. Interpretation

- (1) In this Act, unless the contrary intention appears —

“**Account**” means the Perry Lakes Trust Account established under section 41;

“**AK redevelopment area**” means the area of land comprised of —

- (a) the AK Reserve land; and
- (b) any land that is declared to be part of the AK redevelopment area by the regulations,

but not including any part of such land that is declared not to be part of the redevelopment area by the regulations, and in any event not including —

- (c) the Perry Lakes land; or
- (d) any part of Lot 25 on Deposited Plan 25810, being the land in Certificate of Title Volume 2586 Folio 279, other than the part of that lot referred to in section 6(2)(c);

“**AK Reserve land**” means the land being Lot 713 on Deposited Plan 48234 as created under section 6(6);

- “AK Reserve Minister”** means the Minister of the Crown to whom the Governor has for the time being committed the administration of the *Western Australian Sports Centre Trust Act 1986*;
- “approved redevelopment plan”** means a redevelopment plan in operation under section 28(2) as amended under section 29;
- “Avenues land”** means the land being that part of Lot 25 on Deposited Plan 25810 as is described as Stephenson and Underwood Avenues on Deposited Plan 48234 and being part of the land in Certificate of Title Volume 2586 Folio 279;
- “completion day”** means a day fixed under section 4(2);
- “development”** has the meaning given to that term by the *Planning and Development Act 2005* section 4(1), but does not include any work, act or activity declared by regulations made under this Act not to constitute development;
- “development approval”** means a development approval issued by the WAPC under Part 3 Division 5;
- “district”** has the meaning given to that term by the *Local Government Act 1995* section 1.4;
- “Environment Minister”** means the Minister of the Crown to whom the Governor has for the time being committed the administration of the EP Act;
- “EP Act”** means the *Environmental Protection Act 1986*;
- “EPA”** means the Environmental Protection Authority continued in existence under the EP Act;
- “interest”**, in land, has the meaning given to that term by the *Land Administration Act 1997* section 151;
- “local planning scheme”** has the meaning given to that term by the *Planning and Development Act 2005* section 4(1);

“Metropolitan Region Scheme” has the meaning given to that term by the *Planning and Development Act 2005* section 4(1);

“Perry Lakes land” means the land being Lot 712 on Diagram 90077 and being the whole of the land in Certificate of Title Volume 2138 Folio 21;

“Planning Minister” means the Minister of the Crown to whom the Governor has for the time being committed the administration of the *Planning and Development Act 2005*;

“redevelopment area” means the area of land comprised of —

- (a) the Perry Lakes land; and
- (b) the AK redevelopment area;

“redevelopment period” means the period beginning on resumption day and ending immediately before completion day;

“responsible agency” —

- (a) for the AK redevelopment area, means the AK Reserve Minister;
- (b) for the Perry Lakes land, means the WALA;

“resumed land” means the land transferred under section 6(2) or revested under section 6(3), an indicative plan of which is in Schedule 1;

“resumption day” means a day fixed under section 4(1);

“WALA” means the Western Australian Land Authority established by the *Western Australian Land Authority Act 1992* section 5;

“WAPC” means the Western Australian Planning Commission established by the *Planning and Development Act 2005* section 7(1).

- (2) Certificates of Title, Deposited Plans or Diagrams referred to in this Act are those held by the department of the Public Service that principally assists in the administration of the *Transfer of Land Act 1893*.

[Section 3 amended by No. 43 of 2005 s. 53(2); No. 77 of 2006 s. 4 and 17.]

4. Governor may fix certain dates

- (1) On the recommendation of the Planning Minister, the Governor, by a proclamation published in the *Gazette*, may fix a day as resumption day.
- (2) On the recommendation of the Planning Minister, the Governor, by a proclamation published in the *Gazette*, may fix a day as completion day.
- (3) The Planning Minister must not make a recommendation under subsection (2) unless —
 - (a) satisfied —
 - (i) that the Metropolitan Region Scheme, in so far as it will apply to the redevelopment area on completion day; and
 - (ii) that any local planning scheme, in so far as it will apply to the redevelopment area on completion day,
does not —
 - (iii) prevent any development that would be permitted; or
 - (iv) allow any development that would not be permitted,
in the redevelopment area immediately before completion day under an approved redevelopment plan for the area;
 - (b) the total of —
 - (i) the value, determined by the Valuer General, of any land transferred under section 9(1);
 - (ii) the value, determined by the Valuer General, of any land that will be transferred under section 9(2);

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- (iii) any funds paid under section 46; and
- (iv) any funds that will be paid under section 48, will be at least \$50 million; and
- (c) the Planning Minister has published a notice under section 47.

[Section 4 amended by No. 43 of 2005 s. 53(3).]

5. Crown bound

This Act binds the Crown.

Part 2 — Resumption and return of certain lands

6. Certain land resumed

(1) In this section —

“registered” means registered under the *Transfer of Land Act 1893*.

(2) On resumption day the estate in fee simple of —

- (a) the Perry Lakes land;
- (b) Lot 711 on Diagram 90080 and being the whole of the land in Certificate of Title Volume 2138 Folio 28;
- (c) that part of Lot 25 on Deposited Plan 25810 and being part of the land in Certificate of Title Volume 2586 Folio 279 to be included in Lot 713 on Deposited Plan 48234; and
- (d) portion of road shown as Lot 2 on Deposited Plan 48234,

is transferred to and subject to this Act, is to be held by, the Crown in right of the State.

(3) On resumption day —

- (a) the absolute property in the Avenues land is revested in the Crown and removed from the operation of the *Transfer of Land Act 1893*;
- (b) the land comprising the Avenues land is dedicated as a road; and
- (c) the *Land Administration Act 1997* applies as if that land had been dedicated as a road under that Act.

(4) On resumption day every registered and unregistered interest in the resumed land that existed immediately before that day is extinguished, other than the easement 24512/1966 to the Metropolitan Water Supply Sewerage and Drainage Board registered against the Perry Lakes land.

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- (5) The Registrar of Titles must do all things necessary under the *Transfer of Land Act 1893* to record in the register kept under that Act the matters effected by this section.
- (6) Without limiting subsection (5), the Registrar of Titles may do all things necessary to create Lot 713 on Deposited Plan 48234 (as depicted in Schedule 2) including (but not limited to) closing the portion of road shown as Lot 2 on Deposited Plan 48234 and amalgamating that portion with Lot 711 on Diagram 90080.
- (7) Despite the *Transfer of Land (Surveys) Regulations 1995* regulation 5(1), Deposited Plan 48234 need not show that part of Lot 25 on Deposited Plan 25810, being part of the land in Certificate of Title Volume 2586 Folio 279, that is not transferred under subsection (2).
- (8) Any matter that is required to be done or that may be done under this section is exempt from fees under the *Transfer of Land Act 1893*.

7. No compensation payable for Perry Lakes land

- (1) A person who holds an interest extinguished by section 6(4) in respect of the Perry Lakes land is not entitled to claim or receive any compensation for the extinguishment.
- (2) The *Land Administration Act 1997* Parts 9 and 10 do not apply to or in relation to the compulsory acquisition of the Perry Lakes land effected by section 6.
- (3) The State is not liable to indemnify any person for any expenses incurred before resumption day in relation to the Perry Lakes land.

8. Compensation for part of the AK Reserve land

- (1) Within 6 months after resumption day the State must pay the Town of Cambridge \$1 700 000 as compensation for the extinguishment by section 6(4) of its interest in the land being —
 - (a) Lot 711 on Diagram 90080 and being the whole of the land in Certificate of Title Volume 2138 Folio 28; and
 - (b) that part of Lot 25 on Deposited Plan 25810 and being part of the land in Certificate of Title Volume 2586 Folio 279 included in Lot 713 on Deposited Plan 48234.
- (2) The sum to be paid under subsection (1) must be charged to the Consolidated Account which is appropriated accordingly by this section.
- (3) Except as provided by subsection (1), a person who holds an interest extinguished by section 6(4) in respect of the land being —
 - (a) Lot 711 on Diagram 90080 and being the whole of the land in Certificate of Title Volume 2138 Folio 28;
 - (b) that part of Lot 25 on Deposited Plan 25810 and being part of the land in Certificate of Title Volume 2586 Folio 279 included in Lot 713 on Deposited Plan 48234; and
 - (c) portion of road shown as Lot 2 on Deposited Plan 48234,is not entitled to claim or receive any compensation for the extinguishment.
- (4) The *Land Administration Act 1997* Parts 9 and 10 do not apply to or in relation to the compulsory acquisition of the land referred to in subsection (3) effected by section 6.
- (5) The State is not liable to indemnify any person for any expenses incurred before resumption day in relation to the land referred to in subsection (3).

[Section 8 amended by No. 77 of 2006 s. 4.]

9. Return of part of Perry Lakes land

- (1) At any time before completion day the State may transfer to the Town of Cambridge any estate in fee simple that the State then holds in any part of the Perry Lakes land.
- (2) On a day that is not later than 6 months after completion day the State must transfer to the Town of Cambridge any estate in fee simple that the State holds on the date of the transfer in any of the Perry Lakes land.
- (3) Any transfer that may or must be made under this section is exempt from fees under the *Transfer of Land Act 1893* and from stamp duty.

Part 3 — Redeveloping the redevelopment area

Division 1 — Preliminary

10. Interpretation for the purposes of the EP Act

- (1) For the purposes of the EP Act —
- (a) this Act is a “scheme Act”;
 - (b) a draft redevelopment plan, or a draft amendment to an approved redevelopment plan, prepared under Division 4 is a “scheme”;
 - (c) the WALA is the “responsible authority” in relation to such a scheme relating to the Perry Lakes land;
 - (d) the AK Reserve Minister is the “responsible authority” in relation to such a scheme relating to the AK redevelopment area;
 - (e) the Planning Minister is the “responsible Minister” in relation to such a scheme relating to either the Perry Lakes land or the AK redevelopment area;
 - (f) the period set and notified under section 24 is the “period of public review” in relation to such a scheme relating to either the Perry Lakes land or the AK redevelopment area; and
 - (g) any approval given under section 27 is a “final approval” in relation to such a scheme relating to either the Perry Lakes land or the AK redevelopment area,
- and the EP Act operates accordingly.
- (2) For the purposes of the EP Act section 48C(6), the procedure referred to in sections 24 and 25 of this Act is a procedure of the public review of a scheme.

Division 2 — General

11. Perry Lakes land

- (1) The WALA may do all things necessary to plan, undertake, promote and coordinate the redevelopment of the Perry Lakes land.
- (2) The WALA may exercise any of its powers under the *Western Australian Land Authority Act 1992* for the purpose of performing its functions under subsection (1).
- (3) Without limiting subsections (1) and (2) the WALA may do any or all of the following —
 - (a) hold, deal with, exchange or dispose of the Perry Lakes land or any part of it;
 - (b) on behalf of the Crown in the right of the State, sign any document in connection with dealing with, exchanging or disposing of the Perry Lakes land or any part of it;
 - (c) subdivide, amalgamate, improve, develop and alter the Perry Lakes land or any part of it;
 - (d) enter into any contract or arrangement with any person, including a public authority or a local government, for the performance by the person of any work or the supply of equipment or services.
- (4) The WALA must perform its functions under this section in accordance with the approved redevelopment plan for the Perry Lakes land.
- (5) Nothing in this Act prevents the subdivision and sale of the whole or any part of the Perry Lakes land.
- (6) The WALA must not perform functions under this section after completion day.

12. AK Reserve Minister's functions

- (1) The AK Reserve Minister, acting on behalf of, and in the name of, the State, must ensure that the following sporting facilities are constructed —
 - (a) facilities for athletics that will serve the people of the whole State;
 - (b) facilities for basketball of such a size and standard as are determined by the Minister;
 - (c) facilities for rugby of such a size and standard as are determined by the Minister.
- (2) The sporting facilities must be constructed wholly or partly on the AK Reserve land or on land in the AK redevelopment area or on land outside the AK redevelopment area, as the Minister decides, but not on the Perry Lakes land.
- (3) In complying with subsection (1), the AK Reserve Minister must have regard to these principles —
 - (a) the consumption of non-renewable resources in the construction and operation of the facilities should be minimised;
 - (b) the use of recycled and recyclable materials in the construction of the facilities should be maximised;
 - (c) the use of hazardous materials or substances in the construction and operation of the facilities should be minimised;
 - (d) the use of natural ventilation and natural light by the facilities should be maximised;
 - (e) the noise and light emitted from the constructed facilities should be minimised;
 - (f) the facilities should where possible incorporate passive solar design principles and be designed with regard to the local climate;

- (g) the consumption by the facilities of energy generated from non-renewable resources should be minimised by measures such as using appliances, plant and equipment that minimise energy consumption;
 - (h) the consumption by the facilities of water from the public water supply system and from underground should be minimised by measures such as reusing grey water, capturing rain water, and using appliances and landscaping with plants that minimise water consumption;
 - (i) the amount of material, resulting from the construction of the facilities, that is disposed of in landfill sites should be minimised;
 - (j) the infrastructure shared by the facilities with one another should be maximised;
 - (k) the facilities should be designed in accordance with the sustainability initiatives in clause B.4.1 of the *Tender shell for the modified qualification based selection process*, version dated 9 March 2005, published by the Department of Housing and Works.
- (4) The AK Reserve land must not be developed for a purpose that is inconsistent with the purpose for which it was reserved under the Metropolitan Region Scheme immediately before the coming into operation of this section.
- (5) The AK Reserve Minister, acting on behalf of and in the name of the State, may do all things necessary for the purposes of subsection (1).
- (6) Without limiting subsection (5) the AK Reserve Minister, acting on behalf of and in the name of the State, may do any or all of the following —
- (a) hold, deal with, exchange or dispose of the AK Reserve land or any part of it;

- (b) sign any document in connection with dealing with, exchanging or disposing of the AK Reserve land or any part of it;
 - (c) carry out any investigation, survey, exploration or feasibility study;
 - (d) enter into any contract or arrangement with any person, including a public authority or a local government, for the performance by the person of any work or the supply of equipment or services;
 - (e) apply for the grant of any licence or other authority required for the purposes of this Act.
- (7) The AK Reserve Minister must comply with the approved redevelopment plan for the AK redevelopment area.
- (8) Nothing in this Act prevents all or part of the AK Reserve land from being the subject of an order made under the *Land Administration Act 1997* section 82.
- (9) The AK Reserve Minister must not perform functions under this section after completion day.

13. Compliance with written laws

Nothing in this Division is to be read as conferring on the WALA or the AK Reserve Minister in the performance of their functions any immunity from the operation of any written law.

Division 3 — Operation of planning and other laws affected

14. Certain planning schemes cease to apply

- (1) In this section —
- “**planning scheme**” means —
- (a) the Metropolitan Region Scheme; or

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Division 3 — Preliminary

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planning and
other laws
affected**

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- (b) a local planning scheme.
- (2) On resumption day, any planning scheme that applies to the redevelopment area immediately before that day, ceases to apply to that area and to any development of that area commenced on or after that day.
- (3) If, after resumption day, any land is declared by the regulations to be part of the AK redevelopment area, any planning scheme that applies to that land immediately before the declaration ceases to apply to that land and to any development of that land commenced on or after that time.
- (4) The *Interpretation Act 1984* section 37 applies in respect of subsections (2) and (3) as if a planning scheme were an enactment and the subsections repealed the scheme.
- (5) Subsections (2) and (3) do not affect the operation of section 15.
- (6) If, after resumption day, any land is declared by the regulations not to be part of the AK redevelopment area, a planning scheme that, but for subsection (2) or (3), would apply to the land, applies to the land.

[Section 14 amended by No. 43 of 2005 s. 53(4).]

15. Certain planning schemes affecting redevelopment area not to operate until completion day

- (1) Any amendment made to the Metropolitan Region Scheme after resumption day and before completion day, in so far as it applies to the redevelopment area, has no effect until completion day.
- (2) A local planning scheme, or an amendment to such a scheme, made after resumption day and before completion day, in so far as it applies to the redevelopment area, has no effect until completion day.

17. Operation of other laws may be suspended

The *Planning and Development Act 2005* section 132, with any necessary changes, applies for the purpose of carrying out an approved redevelopment plan as if a reference in that section —

- (a) to an Act were a reference to a written law;
- (b) to an approved scheme were a reference to that approved redevelopment plan; and
- (c) to the responsible authority were a reference to —
 - (i) in the case of the Perry Lakes land, the WALA;
 - (ii) in the case of the AK redevelopment area, the AK Reserve Minister.

[Section 17 amended by No. 43 of 2005 s. 53(7).]

Division 4 — Redevelopment plans

18. Time for complying with this Division

Subject to sections 19 to 28, the actions required under those sections must be done as soon as practicable after resumption day.

19. Draft redevelopment plans to be prepared

- (1) The WALA must prepare a draft redevelopment plan for the Perry Lakes land.
- (2) The AK Reserve Minister must prepare a draft redevelopment plan for the AK redevelopment area.
- (3) In preparing a draft redevelopment plan, the responsible agency concerned must —
 - (a) make reasonable endeavours to consult such public authorities and persons as appear to the agency would be likely to be affected by the plan if it were approved; and

- (b) include in the plan any provision that the agency considers will promote the orderly and proper planning, development and management of the land concerned.
- (4) A draft redevelopment plan may include any provision that may be made by a local planning scheme under the *Planning and Development Act 2005*.
- (5) The draft redevelopment plan for the Perry Lakes land must include the provisions required by section 27(3).
- (6) The draft redevelopment plan for the AK redevelopment area must include the provisions required by section 27(4).

[Section 19 amended by No. 43 of 2005 s. 53(8).]

20. Draft redevelopment plan to be submitted to local government for comment

A responsible agency that prepares a draft redevelopment plan under section 19 must submit it for comment to the local government in whose district the land concerned is situated.

21. Draft redevelopment plan to be submitted to EPA

- (1) A responsible agency that prepares a draft redevelopment plan under section 19 must submit it to the EPA together with such written information about it as is sufficient to enable the EPA to comply with EP Act section 48A in relation to it.
- (2) If, under the EP Act section 48A(1)(b)(i), the EPA informs the responsible agency that the draft should be assessed by the EPA under the EP Act Part IV Division 3, the agency must —
 - (a) within 7 days after the last day on which submissions may be made to the agency under section 25, send the EPA a copy of each submission made under section 25 that relates wholly or in part to any environmental issue raised by the draft; and

- (b) within 42 days after that last day, advise the EPA of the agency's views on and response to each environmental issue to which any such submission relates.
- (3) If, under the EP Act section 48C(1)(a), the EPA requires the responsible agency to undertake an environmental review of the draft, the agency must, if it wants to proceed with the draft, undertake the review in accordance with the instructions issued under that section.

22. Draft redevelopment plan to be submitted to WAPC

- (1) A responsible agency that prepares a draft redevelopment plan under section 19 must submit it to the WAPC.
- (2) The draft must not be submitted to the WAPC before —
 - (a) 35 days have elapsed since the day on which it was submitted to the local government under section 20;
 - (b) the agency has sent any environmental review required by section 21(3) to the EPA; and
 - (c) either —
 - (i) the EPA has advised the agency that the review has been undertaken in accordance with the instructions issued under the EP Act section 48C(1)(a); or
 - (ii) 30 days have elapsed since the day on which the review was sent to the EPA and the EPA has not advised whether or not the review has been undertaken in accordance with those instructions, whichever first occurs.
- (3) The draft must be submitted to the WAPC together with any comments received from the local government to which it was submitted under section 20.

- (4) If the EPA advises the responsible agency that the review has not been undertaken in accordance with the instructions issued under the EP Act section 48C(1)(a), the agency may —
 - (a) consult with the Environment Minister and, if possible, agree with him or her on whether or not the review has been undertaken in accordance with those instructions; or
 - (b) comply with section 21(3).
- (5) If under subsection (4)(a) the agency and the Environment Minister consult then —
 - (a) if they agree whether or not the review has been undertaken in accordance with the instructions issued under the EP Act section 48C(1)(a), their decision is final and cannot be appealed; and
 - (b) if they cannot so agree, the EP Act section 48J applies.

23. WAPC's functions as to draft redevelopment plan

- (1) Having considered a draft redevelopment plan submitted to it under section 22 by a responsible agency, the WAPC may —
 - (a) consent or refuse to consent to the public notification of the draft; or
 - (b) consent to such public notification subject to the draft being amended as directed by the WAPC.
- (2) If under subsection (1) the WAPC refuses to consent to the public notification of a draft redevelopment plan, the WAPC must give the agency directions as to the preparation and submission to the WAPC of a further draft redevelopment plan.
- (3) A responsible agency must comply with any direction given under subsection (1) or (2).

24. Public notification of draft redevelopment plan

- (1) If under section 23(1), the WAPC consents to the public notification of a draft redevelopment plan, the responsible agency that prepared the draft must publish a notice stating —
 - (a) where and when a copy of the draft can be inspected and where and when such a copy can be obtained;
 - (b) the effect of section 25; and
 - (c) the period within which submissions about the draft can be made, set under subsection (3).
- (2) The notice must be published —
 - (a) in the *Gazette*; and
 - (b) in 2 issues of a newspaper circulating in the local government district in which the redevelopment area is situated.
- (3) The period within which submissions about the draft can be made must be set by the responsible agency, but must not be less than 60 days after the day on which the notice is published in the *Gazette*.
- (4) Regulations made under this Act may prescribe a fee for obtaining a copy of a draft redevelopment plan.

25. Public submissions on draft redevelopment plan

- (1) Any person may send the responsible agency that prepared a draft redevelopment plan, notice of which has been published in the *Gazette* under section 24, a written submission about the draft.
- (2) Any such submission must be received by the office of the responsible agency within the period stated in that notice.

26. Draft development plan to be submitted to Planning Minister

- (1) After section 24 has been complied with and the period within which submissions about a draft redevelopment plan can be made has elapsed, the responsible agency that prepared the draft must submit it to the WAPC.
- (2) The draft may include amendments that take account of any comments received from the local government concerned and any submission received under section 25.
- (3) The draft must be submitted to the WAPC together with a summary, and a report by the responsible agency on the merits, of all submissions received under section 25.
- (4) After considering the draft and the material submitted under subsection (3), the WAPC must submit the draft to the Planning Minister with a report about it and a recommendation to that Minister that he or she —
 - (a) approve it;
 - (b) refuse to approve it; or
 - (c) approve it subject to amendments being made to it, as recommended by the WAPC.

27. Planning Minister's functions as to draft redevelopment plans

- (1) After considering a draft redevelopment plan, and the report and recommendation about it, submitted to him or her under section 26, the Planning Minister must —
 - (a) approve it;
 - (b) refuse to approve it; or
 - (c) approve it subject to amendments being made to it, as directed by the Planning Minister.
- (2) The Planning Minister must not act under subsection (1) —

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Division 4 — Preliminary

Redevelopment plans

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- (a) until —
 - (i) under the EP Act section 48A(1)(a), the EPA has informed the responsible agency that prepared the draft that the EPA considers that the draft should not be assessed by the EPA under the EP Act Part IV Division 3;
 - (ii) the 28 day period referred to in the EP Act section 48A(1)(b)(i) has expired without the EPA having, under that section, informed the responsible agency that prepared the draft; or
 - (iii) the Planning Minister has received a statement delivered under the EP Act section 48F(2), or a decision has been made under the EP Act section 48J, in respect of the conditions, if any, to which the draft is subject and he or she is satisfied that the conditions, if any, to which the draft is subject have been incorporated into the draft received by the Planning Minister,
whichever first occurs; or
 - (b) if he or she has reached agreement with the Environment Minister under the EP Act section 48A(2)(b).
- (3) The Minister must not approve a draft redevelopment plan for the Perry Lakes land unless satisfied that under its provisions —
- (a) any development on the land will, when compared with the current standard practice as determined by the WAPC —
 - (i) significantly reduce the amount of material, resulting from any development, that is disposed of in landfill sites;
 - (ii) significantly increase the recycling of material from any demolition of structures that are on the land on resumption day;

- (iii) significantly increase the use in any development of recycled materials and materials from renewable resources;
 - (iv) significantly reduce any harm to the environment that may be caused by demolition or construction activities or by stormwater;
- (b) any building or structure constructed on, and any use of, the land will —
 - (i) significantly reduce the consumption of water by people living on the Perry Lakes land with the aim that they will consume not more than 155 kilolitres per person per year from the public water supply system; and
 - (ii) significantly reduce the consumption of energy generated from non-renewable resources by people living on the Perry Lakes land with the aim that the amount of such energy consumed by them per dwelling per year will be 25% less than the average amount, as determined by the WAPC, of such energy consumed per dwelling in 2005 by comparable dwellings in comparable meteorological locations in metropolitan Perth;
- (c) on subdivision at least 15% of the land will be ceded to the State for public open space and that the land ceded will be located so as to —
 - (i) generally adjoin Alderbury Street and Brookdale Street;
 - (ii) contain and conserve near those streets as many of the trees that are indigenous to the land as possible having regard to the need to connect 2 roads to those streets; and
 - (iii) provide for the establishment of flora that is indigenous to the land in areas within the public open space;

- (d) no building will be built on the land that is over 5 storeys above the existing level of the ground on which the building is built; and
 - (e) accommodation designed for people who have reached 55 years of age will be included in the development.
- (4) The Minister must not approve a draft redevelopment plan for the AK redevelopment area unless satisfied it contains provisions that ensure —
- (a) that as much of the existing flora on the AK Reserve land as possible is conserved in a corridor running in a broadly east-west direction; and
 - (b) that the corridor is enhanced with flora that is indigenous to the land so as to create a continuous belt of such flora.
- (5) If the Planning Minister refuses to approve a draft redevelopment plan, the Minister must give directions as to the preparation of a further draft redevelopment plan and as to the submission of the plan under this section and such of sections 20 and 22 as the Minister may specify.
- (6) A responsible agency that prepares a draft redevelopment plan must comply with any direction given by the Planning Minister under subsection (1) or (5).

28. Planning Minister's approval to be gazetted

- (1) If under section 27 the Planning Minister approves a redevelopment plan, the responsible agency that prepared the draft of it must publish a notice in the *Gazette* of the approval and of where and when a copy of the approved plan can be inspected and where and when a copy can be obtained.
- (2) An approved redevelopment plan comes into operation on the day on which the notice is published under subsection (1), or on any later day specified in the plan.

- (3) Regulations made under this Act may prescribe a fee for obtaining a copy of an approved redevelopment plan.

29. Redevelopment plan may be amended

- (1) The responsible agency that prepared the draft of an approved redevelopment plan may prepare a draft amendment to the plan.
- (2) Sections 20 to 28, with any necessary changes, apply to a draft amendment as if —
- (a) any reference in those sections to a draft redevelopment plan were references to the draft amendment; and
 - (b) the reference in section 27(5) to a further draft redevelopment plan were a reference to a further draft amendment.

Division 5 — Development control

30. *Town Planning and Development Act 1928 s. 20, operation of*

When exercising any power under the *Planning and Development Act 2005* section 135 or 136 in relation to a part of the redevelopment area the WAPC must have regard to the approved development plan that relates to that part of the redevelopment area.

[Section 30 amended by No. 43 of 2005 s. 53(9).]

31. Undertaking unauthorised developments an offence

- (1) A person who, in the redevelopment period, undertakes any development on any part of the redevelopment area, or causes any such development to be undertaken, commits an offence unless the development is authorised by a development approval.
- (2) A person who, while a development approval is in force, undertakes any development, or causes any such development to

be undertaken, that contravenes the approval, or any condition to which the approval is subject, commits an offence.

- (3) A person who commits an offence under subsection (1) or (2) is liable to a fine of \$50 000 and, for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$5 000.
- (4) To avoid doubt, subsections (1), (2) and (3) apply to the WALA and to the AK Reserve Minister.
- (5) It is immaterial for the purposes of this Division that a development is undertaken in the performance of a function vested in a person by a written law.

32. Application for development approval

- (1) An application for a development approval must be made to the WAPC in the prescribed form with the fee (if any) prescribed by the regulations.
- (2) An application must be accompanied by plans and specifications of the proposed development.
- (3) The applicant must provide any information or documents relating to the proposed development that the WAPC may reasonably require.
- (4) An application cannot be made under this section on or after completion day.

33. WAPC to notify certain people of applications

- (1) On receiving an application for a development approval made under section 32, the WAPC must give written notice of its particulars to —
 - (a) each public authority that appears to the WAPC to have functions relevant to, or whose operations are likely to be affected by, the proposed development; and

- (b) the local government in whose district the land concerned is situated.
- (2) A person notified under subsection (1) may make submissions to the WAPC about the proposed development.

34. WAPC's functions as to applications

- (1) In considering an application for a development approval made under section 32, the WAPC must have regard to —
 - (a) the approved redevelopment plan that relates to the land;
 - (b) any submissions received from a person notified under section 33(1);
 - (c) the requirements of orderly and proper planning; and
 - (d) the preservation of the amenities of the area.
- (2) After considering an application for a development approval made under section 32, the WAPC may —
 - (a) refuse to issue a development approval for the proposed development;
 - (b) issue such an approval; or
 - (c) issue such an approval subject to any condition decided by the WAPC.
- (3) Without limiting subsection (2)(c), a development approval may be issued subject to a condition limiting the time for which the approval remains in force.
- (4) The WAPC must not act under subsection (2) until —
 - (a) at least 42 days after the day on which section 33(1) is complied with; or
 - (b) final submissions are made to it by each person notified under section 33(1),whichever occurs first.

- (5) If on completion day the WAPC has not acted under subsection (2) in respect of an application, the WAPC must forward the application, and any submissions received from a person notified under section 33(1), to the person or persons to whom, under —

- (a) the Metropolitan Region Scheme; or
- (b) a local planning scheme that operates in respect of the land to which the application relates,

an application for approval for development must be made.

- (6) An application that is forwarded under subsection (5) is to be taken to be an application for approval for development made under —

- (a) the Metropolitan Region Scheme; or
- (b) a local planning scheme that operates in respect of the land to which the application relates,

as the case requires.

- (7) The WAPC must give written notice of any decision under subsection (2), or any action taken under subsection (5), to the applicant and each person notified under section 33(1).

- (8) Subject to any condition limiting the time for which it remains in force, a development approval remains in force on and after completion day if the development to which it applies has not been completed before completion day.

[Section 34 amended by No. 43 of 2005 s. 53(10) and (11).]

35. Review of WAPC's decision by SAT

An applicant for a development approval may apply to the State Administrative Tribunal for a review, in accordance with the *Planning and Development Act 2005* Part 14, of a decision made under section 34 in respect of the applicant's application.

[Section 35 amended by No. 43 of 2005 s. 53(12).]

- (5) On or as soon as practicable after completion day the Housing Minister must give the relevant local government —
- (a) a copy of any approval, licence or other document issued by the Housing Minister under the building laws in respect of any matter connected with the Perry Lakes land;
 - (b) any application that has been made under the building laws to the Housing Minister in respect of any matter connected with the Perry Lakes land and that has not been decided by the Housing Minister;
 - (c) any fee received by the Housing Minister in respect of any such application; and
 - (d) any other document received by the Housing Minister under the building laws in respect of any matter connected with the Perry Lakes land.
- (6) On receiving an application referred to in subsection (5)(b), the relevant local government must deal with it as if it had been made to the local government.

Division 6 — Unauthorised developments

37. Interpretation

In this Division —

“**unauthorised development**” means any development —

- (a) that occurs in the redevelopment period and that is not authorised by a development approval; or
- (b) that contravenes a development approval or any condition to which a development approval is subject.

38. Unauthorised developments, WAPC’s powers as to

- (1) The WAPC, by a written notice served on the person, may —
- (a) direct a person who has undertaken an unauthorised development to remove, pull down, take up, or alter the

- development and to do so before a day specified in the notice being a day not less than 21 days after the day on which the notice is served; or
- (b) direct a person who is undertaking an unauthorised development to stop doing so immediately; or
 - (c) give both such directions to one person.
- (2) If under subsection (1) a person is given a direction, the person may apply to the State Administrative Tribunal for a review, in accordance with the *Planning and Development Act 2005* Part 14, of the decision to give the direction.
 - (3) If an application is made under subsection (2) in respect of a direction given under subsection (1)(a), the direction is suspended pending the determination of the application.
 - (4) If the State Administrative Tribunal confirms or varies a direction given under subsection (1)(a), it may, by written notice served on the person, direct the person to comply with the direction as so confirmed or varied, before a day specified in the notice being a day not less than 21 days after the day on which the notice is served.
 - (5) A person served with a notice under this section must obey it.
Penalty:
 - (a) a fine of \$50 000;
 - (b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$5 000.
 - (6) If a person does not obey a notice served on the person under subsection (1)(a) and —
 - (a) an application is not made under subsection (2) within the time allowed for doing so; or
 - (b) such an application is made and is determined,

the WAPC, subject to the determination, may itself remove, pull down, take up or alter the development.

- (7) The WAPC may recover the costs incurred by the WAPC in exercising the powers in subsection (6) from the person who did not obey as a debt in a court of competent jurisdiction.

[Section 38 amended by No. 43 of 2005 s. 53(13).]

Division 7 — Miscellaneous

39. Planning Minister's powers to ensure environmental conditions are met

- (1) In this section —

“assessed scheme” means an approved redevelopment plan that is an assessed scheme within the meaning of the EP Act;

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

- (2) After receiving advice from the Environment Minister under the EP Act section 48H(4), the Planning Minister may, in relation to a development implementing an assessed scheme, exercise one or more of these powers —
- (a) by a written notice served on the person who is undertaking the development, direct the person to stop doing so for a period specified in the notice, being a period that begins when the notice is served and ends not more than 24 hours later;
- (b) cause the WAPC to serve a written notice on the person who is undertaking the development directing the person to take such steps as are specified in the notice, within such period as is specified in the notice, for the purpose of —
- (i) complying with; or
- (ii) preventing any non-compliance with,

- the environmental condition to which the Environment Minister's advice relates;
- (c) advise the WAPC to cause such steps to be taken as are necessary for the purpose of —
- (i) ensuring compliance with; or
 - (ii) preventing any non-compliance with,
- the environmental condition to which the Environment Minister's advice relates.
- (3) A person served with a notice under subsection (2) must comply with it.
- Penalty:
- (a) a fine of \$50 000;
 - (b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$5 000.
- (4) Nothing in this section prevents or otherwise affects the application of the EP Act Part V to —
- (a) a development referred to in subsection (2); or
 - (b) pollution or environmental harm caused by any non-compliance with an environmental condition referred to in subsection (2).

40. Annual reports about redevelopment

As soon as practicable after the end of each financial year, the Planning Minister and the AK Reserve Minister must jointly prepare a report about the redevelopment of the redevelopment area and cause it to be laid before each House of Parliament.

Part 4 — Financial provisions

41. Perry Lakes Trust Account established

- (1) An agency special purpose account called the Perry Lakes Trust Account is established under the *Financial Management Act 2006* section 16.
- (2) The Planning Minister must control and administer the Account.
- (3) For the purposes of the *Financial Management Act 2006* section 52, the administration of the Account is to be regarded as a service of the department of the Public Service that principally assists the Planning Minister to administer the *Planning and Development Act 2005*.

[Section 41 amended by No. 43 of 2005 s. 53(14); No. 77 of 2006 s. 17.]

42. Amounts to be credited to the Account

The following are to be credited to the Account —

- (a) the proceeds of the sale of any of the Perry Lakes land by the WALA;
- (b) any income from the investment of moneys standing to the credit of the Account;
- (c) moneys appropriated by Parliament for the purposes of this Act;
- (d) moneys borrowed by the AK Reserve Minister under section 44;
- (e) moneys advanced to the Account under the authority of section 45;
- (f) any other moneys lawfully made available to the Account.

[Section 42 amended by No. 77 of 2006 s. 17.]

43. Amounts to be charged to the Account

- (1) The following are to be charged to the Account —
- (a) the expenses of administering the Account and the provisions of this Act relating to the Account;
 - (b) all costs and expenses incurred under this Act in planning, undertaking, promoting and coordinating the redevelopment of the Perry Lakes land including, without limiting the foregoing, the costs and expenses of —
 - (i) complying with Part 3 and obtaining any approval for any development on the land;
 - (ii) undertaking any development on the land, including subdivision and project management;
 - (iii) marketing any part of the land that is to be sold; and
 - (iv) selling any part of the land;
 - (c) all expenses incurred by the AK Reserve Minister in complying with Part 3 and obtaining any approval for any development to be done under that Part;
 - (d) 52% of the costs incurred in designing and constructing the athletics facilities referred to in section 12(1)(a);
 - (e) the costs incurred in designing and constructing the facilities referred to in section 12(1)(b) and (c);
 - (f) a sum of \$5 million towards the costs of maintaining, operating and managing the athletics facilities referred to in section 12(1)(a);
 - (g) the costs, not exceeding \$1 million, of enhancing the corridor referred to in section 27(4) with flora that is indigenous to the land;
 - (h) moneys necessary to be paid by way of —
 - (i) repayment of principal moneys borrowed under section 44; and

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- (ii) interest on and other expenses of borrowings under section 44;
 - (i) moneys necessary to be paid by way of the interest on, and repayment of, any moneys advanced to the Account by the Treasurer under section 45;
 - (j) any moneys paid under section 46;
 - (k) any expenses prescribed by the regulations to be expenses that are to be charged to the Account.
- (2) The sum charged to the Account under subsection (1)(f) must be credited to a Treasurer's special purpose account established for the purposes referred to in subsection (1)(f) under section 10 of the *Financial Management Act 2006*.

[Section 43 amended by No. 77 of 2006 s. 17.]

44. Power to borrow

- (1) The WALA or the AK Reserve Minister may, if the Treasurer approves, borrow sums of money upon the guarantee of the Treasurer for the purposes of carrying out the WALA's functions under section 11 or the Minister's functions under section 12, as the case requires.
- (2) The WALA or the AK Reserve Minister may borrow money with the prior approval in writing of the Treasurer, but not otherwise, and any borrowing is to be upon terms and conditions that the Treasurer approves.
- (3) This section authorises the Treasurer, for and on behalf of the State, to give any approval or guarantee that this section requires and the guarantee may include the guarantee of interest.
- (4) Any money borrowed by the WALA or the AK Reserve Minister under this section may be raised as one loan or as several loans and in any manner that the Treasurer may approve.
- (5) Before a guarantee is given by the Treasurer under this section, the WALA or the AK Reserve Minister must give to the

Treasurer any security that the Treasurer requires and execute any instruments necessary for giving that security.

- (6) Moneys borrowed under this section can only be used for a purpose referred to in subsection (1).
- (7) The due payment of money payable by the Treasurer under a guarantee under this section is to be charged to and paid out of the Consolidated Account, and this subsection appropriates that Account accordingly.

[Section 44 amended by No. 77 of 2006 s. 4 and 5(3).]

45. Treasurer may make advances to the Account

- (1) Where the Treasurer is of the opinion that the moneys standing to the credit of the Account are at any time insufficient for the purposes of this Act the Treasurer may advance to the Account moneys sufficient for the time being to make up the deficiency.
- (2) Moneys advanced under subsection (1) are to be subsequently repaid to the Treasurer as and when moneys are available to the Account to make repayment.
- (3) Moneys advanced by the Treasurer under this section are so long as they remain unpaid a charge on the Account.

[Section 45 amended by No. 77 of 2006 s. 17.]

46. Payments to Town of Cambridge

With the prior approval in writing of the Treasurer and the AK Reserve Minister, the Planning Minister may pay funds standing to the credit of the Account to the Town of Cambridge.

[Section 46 amended by No. 77 of 2006 s. 17.]

47. Notice that no costs or expenses are chargeable to Account

When the Planning Minister is satisfied that there are no costs or expenses chargeable to the Account, or that satisfactory alternative arrangements have been made for the payment of

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those costs and expenses, the Minister may publish a notice to that effect in the *Gazette*.

[Section 47 amended by No. 77 of 2006 s. 17.]

48. Closure of Account

On completion day —

- (a) any funds standing to the credit of the Account are to be paid to the Town of Cambridge; and
- (b) the Account is then to be closed.

[Section 48 amended by No. 77 of 2006 s. 17.]

Part 5 — Miscellaneous

49. Delegation

- (1) A Minister who has a function under this Act may delegate the function to another person, other than this power to delegate.
- (2) Any such delegation must be in writing.
- (3) A person performing a function delegated under subsection (1), is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (4) This section does not limit a Minister's ability to act through an officer or agent.

50. Body corporate's officers, liability of

- (1) In this section —
 “officer” of a body corporate, has the meaning given to that term in the *Corporations Act 2001* of the Commonwealth but does not include an employee of the body unless the employee was concerned in the management of the body.
- (2) If a body corporate is charged with an offence under this Act, every person who was an officer of the body at the time of the alleged offence may also be charged with the offence.
- (3) If a body corporate and an officer are charged as permitted by subsection (2) and the body corporate is convicted of the offence, the officer is to be taken to have also committed the offence, subject to subsection (6).
- (4) If a body corporate commits an offence under this Act, then, although the body is not charged with the offence, every person who was an officer of the body at the time the offence was committed may be charged with the offence.

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- (5) If an officer is charged as permitted by subsection (4) and it is proved that the body corporate committed the offence, the officer is to be taken to have also committed the offence, subject to subsection (6).
- (6) If under this section an officer is charged with an offence it is a defence to prove —
 - (a) that the offence was committed without the officer's consent or connivance; and
 - (b) that the officer took all the measures to prevent the commission of the offence that he or she could reasonably be expected to have taken having regard to the officer's functions and to all the circumstances.

51. Regulations

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Act.
- (2) Without limiting subsection (1), regulations may provide for —
 - (a) the procedure to be followed in applications for approval under Part 3 Division 5; and
 - (b) the imposition and payment of fees and charges in connection with those applications.

52. Review of Act

- (1) The Minister must carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiration of 5 years from the commencement of this Act.
- (2) In the course of the review the Minister must consider and have regard to —
 - (a) the need for the continuation of this Act; and
 - (b) any other matters that appear to the Minister to be relevant to the operation and effectiveness of this Act.

- (3) The Minister must prepare a report based on the review and, as soon as is practicable after the report is prepared, cause it to be laid before each House of Parliament.

53. Amendments to this Act as a consequence of the *Planning and Development Act 2005*

- (1) The amendments in this section are to this Act.

- (2) Section 3(1) is amended as follows:

- (a) in the definition of “development” by deleting “*Town Planning and Development Act 1928* section 2,” and inserting instead —
“ *Planning and Development Act 2005* section 4(1), ”;
- (b) by inserting after the definition of “interest” —
“
“local planning scheme” has the meaning given to that term by the *Planning and Development Act 2005* section 4(1);
”;
- (c) in the definition of “Metropolitan Region Scheme” by deleting “*Metropolitan Region Town Planning Scheme Act 1959* section 6;” and inserting instead —
“ *Planning and Development Act 2005* section 4(1); ”;
- (d) in the definition of “Planning Minister” by deleting “*Town Planning and Development Act 1928*;” and inserting instead —
“ *Planning and Development Act 2005*; ”;
- (e) by deleting the definition of “town planning scheme”;
- (f) in the definition of “WAPC” by deleting “*Western Australian Planning Commission Act 1985*.” and inserting instead —
“ *Planning and Development Act 2005* section 7(1). ”.

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- (3) Section 4(3)(a)(ii) is amended by deleting “town” and inserting instead —
“ local ”.
- (4) Section 14(1) is amended in the definition of “planning scheme” by deleting “town” and inserting instead —
“ local ”.
- (5) Section 15(2) is amended by deleting “town” and inserting instead —
“ local ”.
- (6) Section 15(3) is amended by deleting “town” and inserting instead —
“ local ”.
- (7) Section 17 is amended by deleting “*Town Planning and Development Act 1928* section 33,” and inserting instead —
“ *Planning and Development Act 2005* section 132, ”.
- (8) Section 19(4) is amended by deleting “town planning scheme under the *Town Planning and Development Act 1928*.” and inserting instead —
“
 local planning scheme under the *Planning and Development Act 2005*.
”.
- (9) Section 30 is amended by deleting “*Town Planning and Development Act 1928* section 20” and inserting instead —
“ *Planning and Development Act 2005* section 135 or 136 ”.
- (10) Section 34(5)(b) is amended by deleting “town” and inserting instead —
“ local ”.

- (11) Section 34(6)(b) is amended by deleting “town” and inserting instead —
“ local ”.
- (12) Section 35 is amended by deleting “*Town Planning and Development Act 1928* Part V,” and inserting instead —
“ *Planning and Development Act 2005* Part 14, ”.
- (13) Section 38(2) is amended by deleting “*Town Planning and Development Act 1928* Part V,” and inserting instead —
“ *Planning and Development Act 2005* Part 14, ”.
- (14) Section 41(3) is amended by deleting “*Town Planning and Development Act 1928*” and inserting instead —
“ *Planning and Development Act 2005* ”.

**Part 6 — *Cambridge Endowment Lands Act 1920*
amended**

54. *Cambridge Endowment Lands Act 1920* amended

- (1) The amendments in this section are to the *Cambridge Endowment Lands Act 1920*.
- (2) Section 3 is amended by inserting in the appropriate alphabetical position the following definition —

“

“Perry Lakes redevelopment land” means —

- (a) the land being Lot 713 on Deposited Plan 48234 and being —
 - (i) Lot 711 on Diagram 90080 and being the whole of the land in Certificate of Title Volume 2138 Folio 28;
 - (ii) part of Lot 25 on Deposited Plan 25810 and being part of the land in Certificate of Title Volume 2586 Folio 279; and
 - (iii) portion of road shown as Lot 2 on Deposited Plan 48234;
- (b) the land being that part of Lot 25 on Deposited Plan 25810 as is described as Stephenson and Underwood Avenues on Deposited Plan 48234 and being part of the land in Certificate of Title Volume 2586 Folio 279; and
- (c) the land being Lot 712 on Diagram 90077 and being the whole of the land in Certificate of Title Volume 2138 Folio 21;

”.

- (3) Section 3 is amended in the definition of “the said lands” by inserting after “16921” the following —
- “ but not the Perry Lakes redevelopment land ”.

Schedule 1 — Resumed land

[s. 3]



Notes

¹ This is a compilation of the *Perry Lakes Redevelopment Act 2005* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Perry Lakes Redevelopment Act 2005</i>	43 of 2005 (as amended by this Act s. 53)	19 Dec 2005	Pt. 1, 2, 4, s. 49-52 and Pt. 6: 19 Dec 2005 (see s. 2(1)); Pt. 3: 3 Feb 2006 (see s. 2(2) and <i>Gazette</i> 3 Feb 2006 p. 607); s. 53: 9 Apr 2006 (see s. 2(3) and <i>Gazette</i> 21 Mar 2006 p. 1077)
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 4, 5(3) and 17	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2 and <i>Gazette</i> 19 Jan 2007 p. 137)
