



Western Australia

Subiaco Redevelopment Act 1994

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Subiaco Redevelopment Act 1994

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Defined Terms

Western Australia

Subiaco Redevelopment Act 1994

An Act to provide for the development and redevelopment of certain land in the local government districts of Subiaco and Cambridge, to establish an Authority with planning, development control and other functions in respect of that land, and for related purposes.

[Long title amended by No. 14 of 1996 s. 4.]

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Subiaco Redevelopment Act 1994*¹.

2. Commencement

This Act comes into operation on such day as is fixed by proclamation¹.

3. Terms used

In this Act, unless the contrary intention appears —

Account means the Subiaco Redevelopment Authority Account referred to in section 56;

acquire includes take on lease;

Authority means the Subiaco Redevelopment Authority;

chairperson means the chairperson of the Authority;

committee means a committee established under clause 7 of Schedule 2;

council means, in relation to the Town of Cambridge, the commission appointed under section 6 of the *City of Perth Restructuring Act 1993* until the commencement of the first properly constituted meeting of the council of the Town of Cambridge;

development has the same meaning as it has in the *Planning and Development Act 2005*, but does not include any work, act or activity declared by regulations made under section 65 not to constitute development;

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

EP Act means the *Environmental Protection Act 1986*;

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

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

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

member means a member of the Authority and except in clauses 1, 2 and 3 of Schedule 2, includes a temporary member and a member of a committee;

Metropolitan Region Scheme has the same meaning as it has in the *Planning and Development Act 2005*;

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

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

redevelopment area means the area referred to in section 4(1);

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

temporary member means a person appointed under clause 3(1) of Schedule 2;

Western Australian Land Authority means the Western Australian Land Authority established by section 5 of the *Western Australian Land Authority Act 1992*.

[Section 3 amended by No. 14 of 1996 s. 4; No. 23 of 1996 s. 35; No. 38 of 2005 s. 15; No. 39 of 2010 s. 86(2).]

4. Redevelopment area defined (Sch. 1)

- (1) The redevelopment area for the purposes of this Act is the area referred to in Schedule 1.

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- (2) Regulations may be made under section 65 amending Schedule 1 —
- (a) by adding to the redevelopment area any area that is contiguous to that area or by subtracting any area from the redevelopment area; or
 - (b) by deleting the redevelopment area and substituting another area for it,

but before any such regulations are made the Minister is to consult with the City of Subiaco or the Town of Cambridge, as the case requires.

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

[Section 4 amended by No. 14 of 1996 s. 4.]

5. Transitional provisions where area amended

- (1) A redevelopment scheme does not extend to any area that becomes part of the redevelopment area under section 4(2) except by virtue of an amendment to the scheme under section 38.
- (2) On and after the day on which an area that is added to the redevelopment area under section 4(2) becomes subject to the

redevelopment scheme, the planning schemes (as defined in section 45(3)) are repealed in relation to that area.

- (3) If an area is subtracted from the redevelopment area under section 4(2), the redevelopment scheme ceases to apply to that area.
- (4) Regulations referred to in section 4(2) may make further provisions of a transitional nature that are expedient to be made in respect of an amendment to Schedule 1 under that subsection including provision —
 - (a) empowering the Minister, if land is subtracted from the redevelopment area, to amend the Metropolitan Region Scheme or a relevant local planning scheme or improvement scheme to provide for —
 - (i) the subtracted land to be included in the area to which any such scheme applies; and
 - (ii) the land to have a reservation or zoning under those schemes the same as, or similar to, that which applied to it under the redevelopment scheme in force immediately before it was subtracted;
 - and
 - (b) for the saving of rights existing at the time of the amendment, but subject to any provision of the redevelopment scheme relating to non-conforming uses.

[Section 5 amended by No. 38 of 2005 s. 15; No. 28 of 2010 s. 38(2).]

Part 2 — Subiaco Redevelopment Authority

Division 1 — Establishment of Authority

6. Authority established

- (1) A body by the name of the Subiaco Redevelopment Authority is established.
- (2) The Authority is a body corporate with perpetual succession and a common seal.
- (3) Proceedings may be taken by or against the Authority in its corporate name.
- (4) The Authority is an agent of the Crown in right of the State and, except as provided in section 18, enjoys the status, immunities and privileges of the Crown.

7. Membership of Authority

- (1) The Authority consists of 5 members appointed by the Minister of whom —
 - (a) 2 are to be persons who, in the opinion of the Minister, have a relevant qualification; and
 - (b) 2 are to be persons nominated by the City of Subiaco who are members of the Council of, or employees of, the City of Subiaco; and
 - [(c) *deleted*]
 - (d) one is to be a person nominated by the Minister to whom the administration of the *Transport Co-ordination Act 1966* is for the time being committed by the Governor.
- (2) In subsection (1), a ***relevant qualification*** means knowledge of, and experience in, one or more of the fields of urban planning, business management, property development, financial management, engineering, transport, housing and community affairs.

- (3) As far as is practicable, the membership of the Authority is to comprise persons who between them have knowledge or experience covering all the fields mentioned in subsection (2).
- (4) The chief executive officer is not to be appointed as a member of the Authority.

[Section 7 amended by No. 14 of 1996 s. 4; No. 57 of 1997 s. 116(1).]

8. Chairperson and deputy chairperson

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

9. Constitution and proceedings (Sch. 2)

The provisions of Schedule 2 have effect with respect to the constitution and proceedings of the Authority.

10. Remuneration and expenses of members

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

[Section 10 amended by No. 39 of 2010 s. 86(3).]

11. Protection from personal liability

- (1) A member or the chief executive officer of the Authority, or any person referred to in section 15 whose services are used by the Authority, is not personally liable for any act done or omitted to be done in good faith by the Authority or in the performance of any function under this Act.

- (2) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.

[Section 11 amended by No. 41 of 1996 s. 3.]

[12. Deleted by No. 14 of 1996 s. 4.]

13. Particular functions of members

[(1) deleted]

- (2) If a matter is before a meeting for consideration and a member present at the meeting has a direct or indirect pecuniary interest in the matter, the member must disclose to the other members present at the meeting, as soon as possible after the relevant facts have come to his or her knowledge, that he or she has an interest, and —
- (a) the disclosure is to be recorded in the minutes of the meeting; and
 - (b) the member must not subsequently be present during any consideration or discussion of, and is not to vote on any determination of, the matter.
- (3) A member must not disclose any information acquired by virtue of the performance of any function unless the disclosure is made —
- (a) in connection with the carrying out of this Act or under any legal duty; or
 - (b) for the purposes of any proceedings arising out of this Act or any report of those proceedings; or
 - (c) in the case of a member appointed under section 7(1)(b) who is a member of the council of the City of Subiaco —
 - (i) in connection with the performance of his or her functions as a member of the council; and
 - (ii) to a closed meeting, or a closed committee meeting, of the council.

[(4) *deleted*]

- (5) A member who commits a breach of any provision of this section —
- (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.
- (6) This section is in addition to and not in derogation of any other law relating to the duty or liability of the holder of a public office.

[Section 13 amended by No. 84 of 1994 s. 49; No. 41 of 1996 s. 3.]

Division 2 — Staff

14. Chief executive officer

- (1) There is to be appointed under the *Public Sector Management Act 1994* a chief executive officer of the Authority.
- (2) The chief executive officer is to administer the day to day operations of the Authority.

[Section 14 amended by No. 39 of 2010 s. 86(4).]

15. Use of staff and facilities of departments etc.

- (1) The Authority may, by arrangement between it and the Minister concerned, and on such terms and conditions as may be agreed by it with that Minister and the Public Sector Commissioner make use, either full-time or part-time, of —
- (a) the services of any officer or employee in the Public Service of the State 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 of the State or of a State agency or instrumentality.
- (2) If —
 - (a) there is no arrangement under subsection (1); or
 - (b) in the opinion of the Minister, arrangements under subsection (1) are not sufficient to enable the Authority to perform its functions,

an arrangement is to be made for the use by the Authority of the services of officers and other employees of the Western Australian Land Authority to enable the Authority to perform its functions.
- (3) An arrangement under subsection (2) is to be made between the Authority and the Western Australian Land Authority and on the terms and conditions that are agreed by them and approved by the Minister.
- (4) If any disagreement arises between the Authority and the Western Australian Land Authority as to the operation of subsection (2), the matter is to be determined as agreed by the Minister and the Minister to whom the administration of the *Western Australian Land Authority Act 1992* is for the time being committed by the Governor.
- (5) The Western Australian Land Authority is authorised to comply with this section despite any provision of the *Western Australian Land Authority Act 1992*.

[Section 15 amended by No. 39 of 2010 s. 86(5).]

16. Consultants etc.

The Authority may engage, under a contract for services or other arrangement, any consultants and professional or technical or other assistance that it considers necessary to enable it to perform its functions.

17. Senior Executive Service

Despite anything in this division, if there is, in the case of the chief executive officer who is a member of the Senior Executive Service under the *Public Sector Management Act 1994*, an inconsistency between this Act and that Act, that Act is to prevail.

[Section 17 amended by No. 39 of 2010 s. 86(6).]

Part 3 — Functions and powers

18. Compliance with written laws

Subject to sections 19 and 21(7), 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.

19. Authority exempt from rates, taxes etc.

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

[Section 19 amended by No. 12 of 2008 Sch. 1 cl. 37.]

20. Functions of Authority

The functions of the Authority are —

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

21. Powers of Authority

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

- (2) Without limiting the generality of subsection (1), the Authority may —
- (a) acquire, hold, manage and dispose of land but, in the case of an acquisition or disposal of land that, in the opinion of the Authority, exceeds \$1 000 000 in value, only with the approval of the Minister and subject to any conditions attached to the approval; and
 - (b) subdivide, amalgamate, improve, develop and alter land; and
 - (c) subject to section 22(1) —
 - (i) participate in any business arrangement; or
 - (ii) acquire, hold and dispose of shares, units or other interests in any business arrangement;and
 - (d) subject to subsection (3), enter into any contract or arrangement with a person, including a public authority or a local government for the performance by that person or body of any work or the supply of equipment or services.
- (3) If the amount to be paid or received by the Authority under a contract or arrangement under subsection (2)(d) exceeds \$1 000 000, the Authority may enter into the contract or arrangement only with the approval of the Minister and subject to any conditions attached to the approval.
- (4) In performing its functions the Authority may act alone or in conjunction with any person or any department of the Public Service, or other agency or instrumentality, of the State or the Commonwealth.
- (5) In performing its functions the Authority is to have regard to, and is to seek to enhance and preserve, the colonial heritage and significance of the redevelopment area and its adjacent areas.
- (6) Despite anything in this section or in section 20, the Authority may pay for the carrying out of any work on land that is

contiguous to the redevelopment area if the work is, in its opinion, directly related to the improvement of the redevelopment area or to the functions of the Authority.

- (7) In exercising any power under this section the Authority is not required to comply with sections 135 and 136 of the *Planning and Development Act 2005* but —
- (a) anything that would otherwise require the approval of the Western Australian Planning Commission under those sections may be done with the approval of the Minister and subject to any conditions attached to the approval; and
 - (b) before the Minister makes any decision required by paragraph (a) he or she is to seek the advice of the Western Australian Planning Commission and consider any advice offered; and
 - (c) if this section applies, section 147 of the *Planning and Development Act 2005* is to be read as if references to the Commission were references to the Minister.

- (8) In subsection (2)(c) —

business arrangement means a proprietary limited company, partnership, trust, joint venture or arrangement for sharing profits;

participate includes form, promote, establish, enter into, manage, dissolve, wind up and do anything incidental to the doing of any of those things.

[Section 21 amended by No. 84 of 1994 s. 50; No. 14 of 1996 s. 4; No. 38 of 2005 s. 15; No. 46 of 2009 s. 17.]

22. Further restrictions on exercise of power

- (1) Any power conferred by section 21(2)(c) is only exercisable with the approval of the Governor and subject to any conditions attached to the approval.

- (2) When the Minister gives any approval under section 21, or the Governor gives any approval under subsection (1), the text of that approval is to be laid before each House of Parliament within 28 sitting days of that House after the day on which the approval is given.
- (3) The annual report submitted by the accountable authority of the Authority under Part 5 of the *Financial Management Act 2006* is to include a summary of any approval referred to in subsection (2).

[Section 22 amended by No. 77 of 2006 Sch. 1 cl. 163(1).]

23. Conditions on disposal of land, imposition of by Authority

- (1) The Authority may attach any condition or restriction to a disposal of land under section 21(2)(a).
- (2) Without limiting subsection (1), the Authority and a transferee may agree that the transferee —
 - (a) is required to make specified improvements to land; or
 - (b) is subject to restrictions on the disposal of or dealing with the land,

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

- (3) The Authority may deliver a memorial relating to a condition or restriction under this section to the Registrar who, on payment of the appropriate fee, is to register the memorial against the relevant land.
- (4) A memorial under subsection (3) is to be in a form approved by the Registrar.
- (5) While a memorial is registered under subsection (3), the Registrar is not to register under the *Transfer of Land Act 1893*,

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without the consent in writing of the Authority, any instrument affecting the land to which the memorial relates.

- (6) As soon as is practicable after the relevant land ceases to be subject to the condition or restriction to which a memorial relates, the Authority is to withdraw the memorial by notice in a form approved by the Registrar, and the Registrar is to cancel the memorial accordingly.
- (7) In this section, *Registrar* means Registrar of Titles.

24. Compulsory taking of land

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

[Section 24 amended by No. 31 of 1997 s. 84(1) and (2).]

25. Governor may direct transfer of land to Authority

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

26. Temporary closure of streets

- (1) Despite any provision of the *Local Government (Miscellaneous Provisions) Act 1960*, the Authority may close, or restrict the thoroughfare in, a street in the redevelopment area —
 - (a) by causing fences and barriers to be placed on or across the street; or
 - (b) in any other manner,if, and for the period that, the Authority considers that the closure or restriction is necessary for the performance of its functions.
- (2) A street may be closed for more than 3 days under subsection (1) only if the Authority has given at least 14 days notice of the closure to the chief executive officer of the City of Subiaco or of the Town of Cambridge, as the case requires.
- (3) In this section and section 27 —

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

[Section 26 amended by No. 14 of 1996 s. 4.]

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27. Permanent closure of streets

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

- (a) includes the Authority; and
- (b) does not include the City of Subiaco or the Town of Cambridge,

in relation to any such street.

[Section 27 amended by No. 14 of 1996 s. 4; No. 31 of 1997 s. 84(3).]

28. Delegation by Authority

- (1) The Authority may by resolution, either generally or as otherwise provided by the resolution, delegate to an eligible person any of its functions under this Act other than this power of delegation.
- (2) In subsection (1), **eligible person** means —
 - (a) a member or the chief executive officer of the Authority; and
 - (b) the Western Australian Land Authority, or a member of the board of directors or an officer of that Authority; and
 - (c) the chief executive officer, or a nominee of the chief executive officer, of the department principally assisting the Minister to whom the administration of the *Planning and Development Act 2005* is committed in the administration of that Act; and
 - (d) the Public Transport Authority of Western Australia, established by the *Public Transport Authority Act 2003* section 5, or its nominee; and
 - (e) a local government or a committee or employee of a local government.

- (3) The Authority may by resolution revoke a delegation under subsection (1).

[Section 28 amended by No. 14 of 1996 s. 4; No. 31 of 2003 s. 154; No. 38 of 2005 s. 15.]

29. Minister may direct Authority

- (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) The text of any direction given under subsection (1) is to be —
- (a) laid before each House of Parliament within 28 sitting days of that House after the day on which the direction is given; and
 - (b) included in the annual report submitted by the accountable authority of the Authority under Part 5 of the *Financial Management Act 2006*.
- (3) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.

[Section 29 amended by No. 41 of 1996 s. 3; No. 77 of 2006 Sch. 1 cl. 163(2).]

30. Minister to have access to information

- (1) The Minister is entitled to have information in the possession of the Authority and, if the information is in or on a document, to have, and make and retain copies of, that document.
- (2) For the purposes of subsection (1) the Minister may —
- (a) request the Authority to provide information to the Minister;
 - (b) request the Authority to give the Minister access to information;

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- (c) for the purposes of paragraph (b) make use of the staff of the Authority or of the Western Australian Land Authority to obtain the information and provide it to the Minister.
- (3) The Authority is to comply with a request under subsection (2) and the Authority and the Western Australian Land Authority are to make their staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.
- (4) In this section —
document includes any tape, disc or other device or medium on which information is recorded or stored;
information means information specified, or of a description specified, by the Minister that relates to the functions of the Authority.

Part 4 — Redevelopment scheme

Division 1 — General

31. Authority to comply with redevelopment scheme

- (1) The Authority is to perform its functions in accordance with the redevelopment scheme for the time being in force under this Part.
- (2) Subsection (1) does not affect the discretion conferred on the Authority by section 50(1).
- (3) A copy of the redevelopment scheme 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.

32. Contents of redevelopment scheme

A redevelopment scheme may make any provision that the Authority considers will promote the orderly and proper planning, development and management of the redevelopment area, including any provision that may be made by a local planning scheme under the *Planning and Development Act 2005*.

[Section 32 amended by No. 38 of 2005 s. 15.]

Division 2 — Preparation and approval of redevelopment scheme

33. Proposed scheme, submission and approval of for public notification

- (1) The Authority is to submit a proposed redevelopment scheme to the Minister as soon as is practicable after the commencement of this Act.

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Part 4 Redevelopment scheme

Division 2 Preparation and approval of redevelopment scheme

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- (2) The Authority may, under subsection (1), submit a proposed redevelopment scheme in 2 or more stages, each one being applicable to a part of the redevelopment area, and if it does so —
- (a) this Part applies to each stage separately; and
 - (b) a reference in this Act or another written law to a, or the, redevelopment scheme may be read as a reference to a redevelopment scheme for part of the redevelopment area as provided for by this subsection.
- (3) A proposed redevelopment scheme is not to be submitted to the Minister unless sections 40 and 41 have been complied with in respect of that redevelopment scheme and it was prepared —
- (a) after consultation with the City of Subiaco and the Town of Cambridge and the Western Australian Planning Commission (whether that consultation occurred before or after the commencement of this Act); and
 - (b) having regard to the views of the local governments and the Commission.
- (4) The Minister may —
- (a) consent or refuse to consent to the public notification of a proposed redevelopment scheme submitted under this section; or
 - (b) consent to such public notification subject to modifications being made to the scheme, as directed by the Minister.
- (5) If the Minister refuses to consent to the public notification of a proposed redevelopment scheme submitted under this section, the Minister is to give directions to the Authority as to the preparation of a further scheme to be submitted under this section.
- (6) The Authority is to comply with any direction of the Minister under subsection (4) or (5).

- (7) The text of any direction given under subsection (4) or (5) is to be —
- (a) laid before each House of Parliament within 28 sitting days of that House after the day on which the direction is given; and
 - (b) included in the annual report submitted by the accountable authority of the Authority under Part 5 of the *Financial Management Act 2006*.

[Section 33 amended by No. 14 of 1996 s. 4; No. 23 of 1996 s. 36; No. 38 of 2005 s. 15; No. 77 of 2006 Sch. 1 cl. 163(3).]

34. Proposed scheme to be publicly notified

- (1) Public notification of a proposed redevelopment scheme in respect of which the Minister has given consent under section 33(4) is to be given in accordance with subsection (2).
- (2) The proposed redevelopment scheme is to be publicly notified by the Authority by the publication —
 - (a) in the *Gazette*; and
 - (b) in 2 issues of a daily newspaper circulating in the local government districts of Subiaco and Cambridge,of a notice —
 - (c) specifying the places at which —
 - (i) a copy of the scheme may be inspected; and
 - (ii) copies of the scheme may be obtained;and
 - (d) stating the effect of section 35 and specifying the period referred to in that section.
- (3) The Authority may fix and charge a fee for supplying copies of a proposed redevelopment scheme.
- (4) The Authority must, in addition to complying with subsection (2), make reasonable endeavours to consult in

respect of the proposed redevelopment scheme such public authorities and persons as appear to the Authority to be likely to be affected by that redevelopment scheme.

[Section 34 amended by No. 14 of 1996 s. 4; No. 23 of 1996 s. 37.]

35. Public submissions about proposed scheme

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

36. Approval of scheme by Minister

- (1) After sections 42 and 42A have been complied with, the Authority is to submit the proposed redevelopment scheme, with any modifications made under section 35(2), to the Minister for approval.
- (2) The scheme as so submitted is to be accompanied by —
 - (a) a summary of all submissions made under section 35; and
 - (b) a report by the Authority on the merits of those submissions.
- (3) The Minister may —
 - (a) approve or refuse to approve the proposed redevelopment scheme; or
 - (b) approve the scheme subject to modifications being made to the scheme, as directed by the Minister.

- (4) If the Minister refuses to approve a proposed redevelopment scheme submitted under this section, the Minister is to give directions to the Authority as to the preparation of a further scheme to be submitted under section 33 or under subsection (1), as the Minister may specify.
- (5) The Authority is to comply with any direction of the Minister under subsection (3) or (4).
- (6) The text of any direction given under subsection (3) or (4) is to be —
 - (a) laid before each House of Parliament within 28 sitting days of that House after the day on which the direction is given; and
 - (b) included in the annual report submitted by the accountable authority of the Authority under Part 5 of the *Financial Management Act 2006*.

[Section 36 amended by No. 23 of 1996 s. 38; No. 77 of 2006 Sch. 1 cl. 163(4).]

37. Public notice of approval of scheme; commencement of scheme

- (1) Notice that a redevelopment scheme has been approved by the Minister under section 36 is to be published by the Authority in the *Gazette* together with a note showing where a copy of the redevelopment scheme may be inspected or obtained.
- (2) A redevelopment scheme comes into operation on the day of publication in the *Gazette* of a notice under subsection (1), or on any later day that is specified in the scheme.
- (3) The Authority may fix and charge a fee for supplying copies of a redevelopment scheme.

Division 3 — Amendment of redevelopment scheme

38. Amending a scheme

- (1) A redevelopment scheme may be amended in accordance with this section.
- (2) The Authority is to submit any proposed amendment to the Minister.
- (3) The following provisions apply for the purposes of this section, with all necessary changes —
 - (a) sections 33(3) and (4), 34 and 36, as if references in those sections to a, or the, proposed redevelopment scheme were references to the proposed amendment to the redevelopment scheme; and
 - (b) section 33(5) and (6), as if, in section 33(5) —
 - (i) the reference to a proposed redevelopment scheme were a reference to the proposed amendment to the redevelopment scheme; and
 - (ii) the reference to a further scheme were a reference to another amendment; and
 - (iii) the words “may give” were substituted for “is to give”;and
 - (c) section 35, as if the reference in that section —
 - (i) to the proposed redevelopment scheme were a reference to a proposed amendment to the redevelopment scheme; and
 - (ii) in subsection (1)(a), to the Authority were a reference to the Minister; and
 - (iii) to 60 days were a reference to 42 days;and

- (d) section 37, as if references in that section to a redevelopment scheme were references to the amendment to a redevelopment scheme.

39. Saving

A development in respect of which an approval under section 50 is in force immediately before an amendment to a redevelopment scheme comes into force under section 38 may be lawfully carried out as if the amendment had not been made.

Division 4 — Role of Environmental Protection Authority in respect of redevelopment schemes, etc.

40. Reference of proposed schemes, and proposed amendments to schemes, to EPA

When the Authority resolves to prepare a redevelopment scheme, or an amendment to a redevelopment scheme, the Authority shall forthwith refer the redevelopment scheme or amendment to the EPA by giving to the EPA —

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

[Section 40 inserted by No. 23 of 1996 s. 39.]

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

- (1) When the EPA has acted under section 48C(1)(a) of the EP Act in relation to a proposed redevelopment scheme or a proposed amendment to a redevelopment scheme, the Authority shall, if it wishes to proceed with that redevelopment scheme or amendment, undertake an environmental review of that redevelopment scheme or amendment in accordance with the

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relevant instructions issued under that section and shall not submit that redevelopment scheme or amendment to the Minister for consent to public notification under section 33, or section 38 as read with section 33, as the case requires, until —

- (a) the Authority has forwarded that review to the EPA; and
 - (b) the EPA has advised that that review has been undertaken in accordance with those instructions, or 30 days have elapsed since that forwarding without the EPA having advised whether or not that review has been undertaken in accordance with those instructions, whichever first occurs.
- (2) If the EPA has advised that the review has not been undertaken in accordance with the relevant instructions issued under section 48C(1)(a) of the EP Act, the Authority may —
- (a) comply with subsection (1) in respect of the redevelopment scheme or amendment concerned; or
 - (b) request the Minister to consult the Minister for the Environment and, if possible, agree with him or her on whether or not that review has been undertaken in accordance with those instructions.
- (3) If the Minister, having complied with a request under subsection (2), and the Minister for the Environment —
- (a) agree on whether or not the review has been undertaken in accordance with the relevant instructions, their decision is to be final and without appeal; or
 - (b) cannot so agree, section 48J of the EP Act applies.

[Section 41 inserted by No. 23 of 1996 s. 39.]

42. Authority's duties as to environmental issues

When the Authority has been informed under section 48A(1)(b)(i) of the EP Act that the proposed redevelopment scheme or amendment should be assessed by

the EPA under Division 3 of Part IV of the EP Act, the Authority shall —

- (a) as soon as practicable, but in any event within 7 days after the expiry of the period referred to in section 35(1)(a), or section 38 as read with section 35(1)(a), as the case requires, transmit to the EPA a copy of each submission —
 - (i) made under section 35, or under section 38 as read with section 35, as the case requires; and
 - (ii) relating wholly or in part to environmental issues raised by that redevelopment scheme or amendment;

and

- (b) within 42 days, or such longer period as the Minister allows, after the expiry of the period referred to in section 35(1)(a), or section 38 as read with section 35(1)(a), as the case requires, inform the EPA of its views on and response to the environmental issues raised by submissions referred to in paragraph (a) and received within that period.

[Section 42 inserted by No. 23 of 1996 s. 39.]

42A. Prerequisite to final approval by Minister of proposed schemes and proposed amendments

The Minister shall not approve under section 36, or section 38 as read with section 36, a proposed redevelopment scheme or amendment referred to the EPA under section 40 if he or she has reached agreement with the Minister for the Environment under section 48A(2)(b) of the EP Act, or until —

- (a) he or she is informed under section 48A(1)(a) of the EP Act that the EPA considers that that redevelopment scheme or amendment should not be assessed by the EPA under Division 3 of Part IV of the EP Act; or

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- (b) he or she has received a statement delivered under section 48F(2), or a decision has been made under section 48J, of the EP Act in respect of the conditions, if any, to which that redevelopment scheme or amendment is subject; or
- (c) the period of 28 days referred to in section 48A(1)(b)(i) of the EP Act has expired without the EPA having informed the Authority under that section,

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

[Section 42A inserted by No. 23 of 1996 s. 39.]

Part 5 — Development control

43. Term used: appointed day

In this Part *appointed day* means the day on which a redevelopment scheme comes into operation under section 37(2).

44. Crown bound

This Part binds the Crown.

45. Certain planning schemes cease to apply

- (1) On and after the appointed day, the planning schemes are repealed in relation to the redevelopment area so that they do not apply to a development that commences in that area on or after that day.
- (2) Section 37 of the *Interpretation Act 1984* applies in respect of the repeal effected by subsection (1) as if the planning schemes were enactments within the meaning of that section.
- (3) In this section, *planning schemes* means —
 - (a) any town planning scheme under the Town Planning Act that is in operation in the redevelopment area immediately before the appointed day; and
 - (aa) any local planning scheme or improvement scheme under the *Planning and Development Act 2005* that is in operation in the redevelopment area immediately before the appointed day; and
 - (b) the Metropolitan Region Scheme.
- (4) Subsection (2) has effect subject to any provision of the redevelopment scheme relating to non-conforming uses.

[Section 45 amended by No. 38 of 2005 s. 15; No. 28 of 2010 s. 38(3).]

46. Saving

- (1) This Part does not apply to a development that was lawfully being carried out in the redevelopment area immediately before the appointed day.
- (2) A development referred to in subsection (1), or in respect of which all necessary approvals under the planning schemes referred to in section 45(3) were in force immediately before the appointed day —
 - (a) may be lawfully carried out as if this Part had not been passed; and
 - (b) is to be governed by those schemes despite section 45(1).

47. No development without approval

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

48. Applying for development approval

- (1) An application for approval under section 47 is to be made to the Authority in the prescribed form with the prescribed fee.
- (2) An application is to be accompanied by plans and specifications of the proposed development, and an applicant is also to provide any information or documents relating to the proposed development that the Authority may reasonably require.

49. Other authorities to be consulted about proposed development

- (1) The Authority is to refer, by notice in writing, particulars of the proposed development —
 - (a) to each public authority that appears to it to have functions that are relevant to, or whose operations are likely to be affected by, the proposed development; and
 - (b) to the City of Subiaco and the Town of Cambridge.
- (2) The City of Subiaco and the Town of Cambridge and a public authority to which particulars are referred under subsection (1) may make submissions on the proposed development to the Authority.
- (3) The Authority is not to make a decision under section 50 on the proposed development until —
 - (a) the expiration of 42 days after all notices have been given as required by subsection (1); or
 - (b) final submissions have been made to it by all authorities to which particulars were referred under that subsection,whichever is the sooner.

[Section 49 amended by No. 14 of 1996 s. 4.]

50. Authority's decision as to proposed development

- (1) The Authority may grant or refuse to grant approval of the proposed development having regard to —
 - (a) the redevelopment scheme; and
 - (b) consultations under section 49; and
 - (c) the requirements of orderly and proper planning; and
 - (d) the preservation of the amenities of the area.
- (2) The Authority may attach to an approval any condition that is within the objects of this Act.

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- (3) The Authority may limit the time for which an approval remains in force.
- (4) An approval under this section is in addition to, and does not derogate from, the requirements of any other written law.
- (5) The Authority is to cause notice in writing of its decision to be given to the applicant, the City of Subiaco and the Town of Cambridge and each public authority to which notice was given under section 49(1)(a).

[Section 50 amended by No. 14 of 1996 s. 4.]

51. Certain applications to be referred to Minister

- (1) If the Authority is the applicant, or has a financial interest in the subject-matter of an application by reason of its participation in a business arrangement, within the meaning in section 21(8), the Authority is to consider the application in accordance with section 50(1) and refer the application and all relevant information to the Minister with a recommendation as to the decision to be made.
- (2) If an application is referred to the Minister under subsection (1) —
 - (a) the Minister is to perform the functions of the Authority under section 50; and
 - (b) for the purpose of that section and sections 41(9), 42, 47 and 52, references to the Authority are to be read as references to the Minister.

52. Review by SAT of s. 50 decisions

- (1) An applicant may apply to the State Administrative Tribunal for a review, in accordance with Part 14 of the *Planning and Development Act 2005*, of a decision of the Authority under section 50 in respect of the applicant's application.

[(2) deleted]

[Section 52 amended by No. 55 of 2003 s. 1160; No. 38 of 2005 s. 15.]

53. Liability of officers for offence committed by body corporate

- (1) If a body corporate is guilty of an offence against section 47 and it is proved that —
- (a) the offence was committed with the consent or connivance of an officer of the body corporate; or
 - (b) an officer of the body corporate failed to exercise all the due diligence to prevent the commission of the offence that ought to have been exercised having regard to the nature of the officer's functions and to all the circumstances,

the officer commits the offence.

- (2) In subsection (1), **officer**, in relation to a body corporate, means —
- (a) a director, secretary or executive officer of the body corporate; and
 - (b) a receiver, or receiver and manager, of property of the body corporate, or any other authorised person who enters into possession or assumes control of property of the body corporate for the purpose of enforcing any charge; and
 - (c) an official manager or a deputy official manager of the body corporate; and
 - (d) a liquidator of the body corporate; and
 - (e) a trustee or other person administering a compromise or arrangement made between the body corporate and another person or other persons,

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

54. Unlawful development, power to direct cessation or removal of

- (1) The Authority may —
- (a) by notice in writing served on a person who is undertaking any development in contravention of section 47, direct the person to stop doing so immediately; or
 - (b) by notice in writing served on a person who has undertaken any development in contravention of that section, direct the person within a period not less than 21 days after the service of the notice, as is specified in the notice, to remove, pull down, take up, or alter any development undertaken in contravention of that section,
- or may by one notice give both directions to a person.
- (2) A person on whom a notice is served containing a direction under subsection (1)(b) may apply to the State Administrative Tribunal for a review, in accordance with Part 14 of the *Planning and Development Act 2005*, of the decision to give the direction.
- (3) A notice containing a direction under subsection (1)(b) is suspended as to that direction pending the determination of the application.
- (4) If the State Administrative Tribunal confirms or varies the direction, it may, by notice in writing served on the person, direct the person to comply with the direction as so confirmed or varied, within a period not less than 21 days after the service of the notice, as is specified in the notice.
- (5) A person must comply with a notice given to the person under this section.
Penalty: \$50 000, and a daily penalty of \$5 000.
- (6) If a person fails to comply with a notice given to the person under subsection (1)(b), the Authority may itself remove, pull

down, take up or alter the development and may recover from the person the costs incurred by the Authority in so doing as a debt in a court of competent jurisdiction.

[Section 54 amended by No. 24 of 2002 s. 29; No. 55 of 2004 s. 1161; No. 38 of 2005 s. 15.]

54A. Minister's powers to ensure environmental conditions are met

(1) In this section —

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

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

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

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

- (a) by order in writing served on the person who is undertaking the development, direct the person to stop doing so for such period, beginning immediately and lasting not more than 24 hours, as is specified in the order; or
- (b) cause the Authority to serve a notice on the person who is undertaking the development directing the person to take such steps as are specified in the notice, within such period as is so specified, for the purpose of —
 - (i) complying with; or
 - (ii) preventing any non-compliance with,the environmental condition to which the Minister for the Environment's advice relates; or

- (c) advise the Authority to cause such steps to be taken as are necessary for the purpose of —
 - (i) complying with; or
 - (ii) preventing any non-compliance with,
the environmental condition to which the Minister for the Environment's advice relates.
- (4) A person shall comply with an order or notice served on the person under subsection (3)(a) or (b).
Penalty: \$50 000, and a daily penalty of \$5 000.
- (5) Nothing in this section prevents or otherwise affects the application of Part V of the EP Act to —
 - (a) a development referred to in subsection (2); or
 - (b) pollution or environmental harm caused by any non-compliance with an environmental condition referred to in subsection (3).

[Section 54A inserted by No. 23 of 1996 s. 40; amended by No. 54 of 2003 s. 68(7).]

55. Compensation for injurious affection etc.

- (1) Part 11 Divisions 1 and 2 of the *Planning and Development Act 2005*, and sections 184(3) and (4), 187 and 188 of that Act, apply with all necessary changes to land in the redevelopment area as if —
 - (a) the redevelopment scheme were a planning scheme under that Act; and
 - (b) the Authority were a responsible authority under that Act; and
 - (c) in the case of land reserved, zoned or classified under the redevelopment scheme for a public purpose, the land were reserved for a public purpose under a planning scheme.

[(2) deleted]

- (3) Compensation is not payable under the *Planning and Development Act 2005* as applied by subsection (1) if payment has been made for the same, or substantially the same, injurious affection under that Act as in operation otherwise than as applied by this section.
- (4) If a claim for compensation has been made but not disposed of before the appointed day, and is one that might have been made under this section, the claim may be continued after the appointed day as if it had been made under this section.

[Section 55 amended by No. 14 of 1996 s. 4; No. 38 of 2005 s. 15.]

Part 6 — Financial provisions

56. Funds of Authority

- (1) The funds available for the purpose of enabling the Authority to perform its functions consist of —
 - (a) moneys from time to time appropriated by Parliament; and
 - (b) moneys received by the Authority from performing any of its functions; and
 - (c) moneys borrowed by the Authority under section 58 or 59; and
 - (d) the proceeds of disposals of land by the Authority; and
 - (e) rents derived from land leased by the Authority; and
 - (f) income derived from the investment under section 57 of moneys standing to the credit of the Account; and
 - (g) any moneys otherwise lawfully received by, made available to or payable to the Authority.
- (2) The funds referred to in subsection (1) are to be credited to an account at a bank approved by the Treasurer to be called the “Subiaco Redevelopment Authority Account”.
- (3) There are to be charged against the moneys from time to time in the Account —
 - (a) interest on, fees payable in respect of and repayments of moneys borrowed by or advanced to the Authority under section 58 or 59; and
 - (b) the remuneration and travelling and other allowances payable to members and to the chief executive officer; and
 - (c) all other expenditure lawfully incurred by the Authority in the performance of its functions.

57. Investment

- (1) Moneys standing to the credit of the Account may, until required for the purposes of this Act, be temporarily invested as the Treasurer directs in any securities in which moneys standing to the credit of the Public Bank Account, as constituted under the *Financial Management Act 2006*, may lawfully be invested.
- (2) Income derived from any such investment is to be credited to the Account.

[Section 57 amended by No. 77 of 2006 Sch. 1 cl. 163(5).]

58. Borrowing by Authority from Treasurer

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

59. Borrowing by Authority generally

- (1) This section is in addition to, and not in derogation from, the provisions of section 58.
- (2) The Authority may —
 - (a) with the prior approval of the Treasurer in writing and on the terms and conditions that the Treasurer approves, borrow moneys for the purpose of performing its functions; and
 - (b) borrow moneys under this subsection on the guarantee of the Treasurer given under section 60.
- (3) Any moneys borrowed by the Authority under subsection (2) may be raised as one loan or as several loans and in the manner that the Treasurer approves, but the amount of the moneys so

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borrowed is not in any one financial year to exceed in the aggregate the amount that the Treasurer approves.

60. Guarantee by Treasurer

- (1) The Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee, in the form and subject to the terms and conditions that the Treasurer determines, the payment of any moneys payable by the Authority in respect of moneys borrowed by it under section 59.
- (2) The due payment of moneys payable by the Treasurer under a guarantee given under subsection (1) —
 - (a) is guaranteed by the State; and
 - (b) is to be made by the Treasurer and charged to the Consolidated Account and this subsection appropriates that Account accordingly.
- (3) By virtue of this subsection the Account and the assets of the Authority are charged with the due repayment of any payment made by the Treasurer under a guarantee given under subsection (1) and with the performance and observance by the Authority of any covenants and conditions that the Treasurer imposes as a term of that guarantee.
- (4) The Treasurer is to cause any amounts received or recovered from the Authority or otherwise in respect of any payment made by the Treasurer under a guarantee given under subsection (1) to be credited to the Consolidated Account.
- (5) Before a guarantee is given by the Treasurer under subsection (1), the Authority is to give to the Treasurer the security that the Treasurer requires and is to execute all instruments that are necessary for the purpose.
- (6) If a guarantee is given by the Treasurer under subsection (1), the Treasurer is to cause the text of the guarantee to be published in

the *Gazette* within 28 days and laid before each House within 14 sitting days of being published.

[Section 60 amended by No. 77 of 2006 s. 4 and 5(1).]

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

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

[Section 61 amended by No. 77 of 2006 Sch. 1 cl. 163(6).]

62. Surplus

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

[Section 62 amended by No. 77 of 2006 s. 4.]

Part 7 — General

63. Modification of other laws

Section 132 of the *Planning and Development Act 2005* applies with all necessary modifications for the purposes of carrying out a redevelopment scheme as if the reference in that section —

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

[Section 63 amended by No. 38 of 2005 s. 15.]

64. Execution of documents by Authority

- (1) A document is duly executed by the Authority, if —
 - (a) the common seal of the Authority is affixed to it in accordance with subsections (2), (3) and (4); or
 - (b) it is signed on behalf of the Authority by persons authorised by the Authority to do so.
- (2) The common seal of the Authority is not to be affixed to any document except as authorised by the Authority.
- (3) Subject to subsection (4), the common seal of the Authority is to be affixed to a document in the presence of those persons, and that number of persons, determined by the Authority, and each of them is to sign the document to attest that the common seal was so affixed.
- (4) At least one of the persons referred to in subsection (3) is to be a member of the Authority.
- (5) A person authorised under subsection (1)(b), or determined under subsection (3), is to be a member or the chief executive officer of the Authority, or a member of the board of directors or an officer of the Western Australian Land Authority.

- (6) A document purporting to be executed in accordance with this section is to be presumed to be duly executed until the contrary is shown.
- (7) When a document is produced bearing a seal purporting to be the common seal of the Authority, it is to be presumed that the seal is the common seal of the Authority until the contrary is shown.
- (8) All courts and persons acting judicially are to take notice of the common seal of the Authority.

65. Regulations

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

66. Review of Act

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

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- (2) The Minister is to prepare a report based on the review made under subsection (1) and, as soon as is practicable after the report is prepared, cause it to be laid before each House of Parliament.

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

Schedule 1 — Redevelopment Area

[s. 4]

[Heading amended by No. 19 of 2010 s. 4.]

All of the land outlined by a broken black and white line on Plan No. 3.1786/2 held at the office of the Authority. For guidance, the redevelopment area is indicated in the following representation of Plan No. 3.1786/2 —



[Schedule 1 inserted in Gazette 17 Nov 2006 p. 4764-5.]

**Schedule 2 — Provisions as to constitution and proceedings
of the Authority**

[s. 9]

[Heading amended by No. 19 of 2010 s. 4.]

1. Term of office

- (1) Except as otherwise provided by this Act, a member holds office for the term, not exceeding 3 years, that is specified in the instrument of his or her appointment, but may from time to time be reappointed.
- (2) Unless —
 - (a) he or she sooner resigns; or
 - (b) he or she is removed from office; or
 - (c) his or her office becomes vacant under clause 2(b),

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

2. Resignation, removal etc.

The office of a member becomes vacant if he or she —

- (a) resigns the office by written notice addressed to the Minister; or
- (b) is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or
- (c) is removed from office by the Governor on the grounds of neglect of duty, misbehaviour, incompetence or mental or physical incapacity impairing the performance of his or her functions and proved to the satisfaction of the Governor; or
- (d) in the case of a member appointed under section 7(1)(b), ceases to be a member of the council or an employee of the City of Subiaco, as the case may be; or
- (e) in the case of a member appointed under section 7(1)(c), ceases to be a member of the board of directors of the Western Australian Land Authority.

[Clause 2 amended by No. 14 of 1996 s. 4; No. 18 of 2009 s. 83.]

3. Temporary members

- (1) If a member 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 deemed to be a member of the Authority.
- (2) If the member 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 member.
- (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 a temporary member may be terminated at any time by the Minister.

4. Resignation etc. of deputy chairperson

The office of deputy chairperson becomes vacant if —

- (a) the person holding the office resigns the office by notice in writing to the Minister; or
- (b) the person holding the office ceases to be a member of the Authority; or
- (c) the Minister declares the office to be vacant.

5. Function of deputy chairperson

- (1) 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.
- (2) 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.

6. Meetings

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

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

7. Committees

- (1) The Authority may from time to time appoint committees of those members, or those members and other persons, that it thinks fit and may discharge or alter any committee so appointed.
- (2) Subject to the directions of the Authority and to the terms of any delegation under section 28, each committee may determine its own procedures.

8. Resolution may be passed without meeting

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

9. Leave of absence

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

10. Authority to determine own procedures

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

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

Notes

¹ This reprint is a compilation as at 24 June 2011 of the *Subiaco Redevelopment Act 1994* and includes the amendments made by the other written laws referred to in the following table^{1a}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Subiaco Redevelopment Act 1994</i>	35 of 1994	8 Jul 1994	s. 1 and 2: 8 Jul 1994; Act other than s. 1 and 2: 24 Aug 1994 (see s. 2 and <i>Gazette</i> 23 Aug 1994 p. 4364)
<i>Planning Legislation Amendment Act (No. 2) 1994 Pt. 5</i>	84 of 1994	13 Jan 1995	1 Mar 1995 (see s. 2 and <i>Gazette</i> 21 Feb 1995 p. 567)
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Planning Legislation Amendment Act 1996 Pt. 5²</i>	23 of 1996	11 Jul 1996	4 Aug 1996 (see s. 2 and <i>Gazette</i> 2 Aug 1996 p. 3615)
<i>Statutory Corporations (Liability of Directors) Act 1996 s. 3</i>	41 of 1996	10 Oct 1996	1 Dec 1996 (see s. 2 and <i>Gazette</i> 12 Nov 1996 p. 6301)
<i>Acts Amendment (Land Administration) Act 1997 Pt. 57</i>	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<i>Statutes (Repeals and Minor Amendments) Act 1997 s. 116³</i>	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
Reprint of the <i>Subiaco Redevelopment Act 1994</i> as at 25 Feb 2000 (includes amendments listed above)			
<i>Planning Appeals Amendment Act 2002 s. 29</i>	24 of 2002	24 Sep 2002	18 Apr 2003 (see s. 2 and <i>Gazette</i> 17 Apr 2003 p. 1243)
<i>Public Transport Authority Act 2003 s. 154</i>	31 of 2003	26 May 2003	1 Jul 2003 (see s. 2(1) and <i>Gazette</i> 27 Jun 2003 p. 2384)
<i>Environmental Protection Amendment Act 2003 s. 68(7)</i>	54 of 2003	20 Oct 2003	19 Nov 2003 (see s. 2 and <i>Gazette</i> 18 Nov 2003 p. 4723)

Subiaco Redevelopment Act 1994

Short title	Number and year	Assent	Commencement
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 122⁴</i>	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Subiaco Redevelopment (Subtracted Area) Regulations 2005 r. 3 published in <i>Gazette</i> p. 4318-21</i>		16 Sep 2005	17 Sep 2005 (see r. 3(2) and <i>Gazette</i> 16 Sep 2005 p. 4322)
<i>Planning and Development (Consequential and Transitional Provisions) Act 2005 s. 15</i>	38 of 2005	12 Dec 2005	9 Apr 2006 (see s. 2 and <i>Gazette</i> 21 Mar 2006 p. 1078)
Reprint 2: The Subiaco Redevelopment Act 1994 as at 2 Jun 2006 (includes amendments listed above)			
<i>Subiaco Redevelopment (Subtracted Area - Stage 2) Regulations 2006 r. 3 published in <i>Gazette</i> p. 4764-8</i>		17 Nov 2006	31 Jan 2007 (see r. 3(2) and <i>Gazette</i> 30 Jan 2007 p. 218)
<i>Financial Legislation Amendment and Repeal Act 2006 s. 4, 5(1) and Sch. 1 cl. 163</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Duties Legislation Amendment Act 2008 Sch. 1 cl. 37</i>	12 of 2008	14 Apr 2008	1 Jul 2008 (see s. 2(d))
Reprint 3: The Subiaco Redevelopment Act 1994 as at 21 Nov 2008 (includes amendments listed above)			
<i>Acts Amendment (Bankruptcy) Act 2009 s. 83</i>	18 of 2009	16 Sep 2009	17 Sep 2009 (see s. 2(b))
<i>Statutes (Repeals and Minor Amendments) Act 2009 s. 17</i>	46 of 2009	3 Dec 2009	4 Dec 2009 (see s. 2(b))
<i>Standardisation of Formatting Act 2010 s. 4</i>	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
<i>Approvals and Related Reforms (No. 4) (Planning) Act 2010 s. 38</i>	28 of 2010	19 Aug 2010	22 Nov 2010 (see s. 2(b) and <i>Gazette</i> 19 Nov 2010 p. 5709)
<i>Public Sector Reform Act 2010 s. 86</i>	39 of 2010	1 Oct 2010	1 Dec 2010 (see s. 2(b) and <i>Gazette</i> 5 Nov 2010 p. 5563)

Short title	Number and year	Assent	Commencement
Reprint 4: The <i>Subiaco Redevelopment Act 1994</i> as at 24 Jun 2011 (includes amendments listed above)			

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

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Metropolitan Redevelopment Authority Act 2011</i> s. 134(d) ^{5,6}	45 of 2011	12 Oct 2011	To be proclaimed (see s. 2(b))

² The *Planning Legislation Amendment Act 1996* s. 39(2), (3) and (4) read as follows:

- (2) Subject to subsections (3) and (4), sections 40, 41, 42 and 42A of the principal Act do not apply to or in relation to a redevelopment scheme, or an amendment to a redevelopment scheme, which the Authority has resolved to prepare for submission to the Minister under section 33(1), or section 38 as read with section 33(1), of the principal Act before the commencement of this section.
- (3) The Minister may, before exercising a power conferred by section 33(4), or section 38 as read with section 33(4), of the principal Act in respect of a proposed redevelopment scheme, or a proposed amendment to a redevelopment scheme, referred to in subsection (2), direct the Authority to ensure compliance with sections 40 and 41 of the principal Act and the Authority must comply with that direction before resubmitting that redevelopment scheme or amendment to the Minister under section 33(1), or section 38 as read with section 33(1), of the principal Act.
- (4) If a redevelopment scheme or amendment in respect of which a direction given under subsection (3) has been complied with is subsequently approved, with or without amendments, under section 33(4), or section 38 as read with section 33(4), of the principal Act, the Authority shall, if it wishes to proceed with that redevelopment scheme or amendment, ensure that sections 42 and

42A of the principal Act are complied with in respect of that redevelopment scheme or amendment.

³ The *Statutes (Repeals and Minor Amendments) Act 1997* s. 116(2) is a transitional provision of no further effect.

⁴ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

⁵ On the date as at which this compilation was prepared, the *Metropolitan Redevelopment Authority Act 2011* s. 134(d) had not come into operation. It reads as follows:

134. Acts repealed

These Acts are repealed:

- (d) the *Subiaco Redevelopment Act 1994*.

⁶ The *Metropolitan Redevelopment Authority Act 2011* Pt. 10 Div. 3 and Pt. 11 read as follows:

Division 3 — Validations

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

- (1) In this section —

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

redevelopment Act means any of the following Acts —

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

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

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

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

Part 11 — Transitional provisions

146. Terms used

In this Part —

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

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

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

redevelopment Act means any of the following Acts —

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

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

147. Interpretation Act 1984 not affected

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

148. Assets, rights and liabilities

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

brought or continued by the abolished authority may be brought or continued by the Authority.

- (4) On and after the day on which a redevelopment Act is repealed, any remedy that immediately before that day is available against or to the abolished authority is available against or to the Authority.

149. Agreements and instruments generally

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

150. References in written laws to abolished authorities

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

151. Employed staff

- (1) In this section —
- Armadaale Redevelopment Authority* means the body established under the *Armadaale Redevelopment Act 2001* section 6(1);
- existing employee* means a person referred to in subsection (3);
- Midland Redevelopment Authority* means the body established under the *Midland Redevelopment Act 1999* section 6(1).
- (2) If, immediately before the coming into operation of this subsection —
- (a) a person was employed under a contract of service with a redevelopment authority or other statutory authority to perform duties relating exclusively to the provision of services for a redevelopment authority; and

- (b) under its terms, the contract expires on a day that is on or after 31 December 2011 and on or before 30 June 2012, unless earlier lawfully terminated by either party to the contract, the contract is to be taken to expire 6 months after the coming into operation of section 134.
- (3) On the coming into operation of section 134 —
- (a) any person who immediately before the coming into operation of that section was employed under a contract of service with a statutory authority to perform duties relating exclusively to the provision of services to the Armadale Redevelopment Authority becomes a staff member of the Authority and is to be taken to have been employed under the contract of service under section 110(2); and
- (b) any person who immediately before the coming into operation of that section was an officer appointed under the *East Perth Redevelopment Act 1991* section 15 becomes a staff member of the Authority and is to be taken to have been employed under a contract of service under section 110(2); and
- (c) any person who immediately before the coming into operation of that section was a public service officer under the *Public Sector Management Act 1994* seconded to perform services for the Midland Redevelopment Authority becomes a staff member of the Authority and is to be taken to have been appointed for the purposes of section 110(1).
- (4) Except as otherwise agreed by an existing employee, the operation of subsection (3) does not —
- (a) affect the employee's pay, within the meaning of that term in the *Public Sector Management (Redeployment and Redundancy) Regulations 1994* regulation 3(1); or
- (b) affect the employee's other conditions of service; or
- (c) affect the employee's existing or accruing rights in respect of annual leave, long service leave, sick leave or any other leave, which are enforceable against the State; or
- (d) affect any rights under a superannuation scheme; or
- (e) interrupt the continuity of the employee's service.

152. People engaged under contracts for services

- (1) This section applies if —

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

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

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

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

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

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

- (1) This section applies if, on the repeal of a redevelopment Act, land is declared to be or to be part of, or is added to, a redevelopment area by regulations made for the purposes of section 153(1).
- (2) On the repeal —
- (a) the redevelopment scheme that was in operation under the repealed Act has effect as if it were a redevelopment scheme in operation under Part 5; and
 - (b) this Act applies to and in respect of the scheme accordingly.
- (3) In subsection (2) —
redevelopment scheme includes any instruments made under the redevelopment scheme.

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

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

155. Exemptions from State tax

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

156. Transitional regulations

- (1) If this Part does not provide sufficiently for a matter or issue of a transitional nature that arises as a result of a repeal or amendment made under Part 10 or the enactment of this Act, the Governor may make regulations (the *transitional regulations*) prescribing all matters that are required, necessary or convenient to be prescribed for providing for the matter or issue.
- (2) The transitional regulations may provide that specified provisions of this Act —
- (a) do not apply; or
 - (b) apply with specified modifications,
- to or in relation to any matter.
- (3) If the transitional regulations provide that a specified state of affair is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the transitional regulations are published in the *Gazette* but not earlier than the commencement of this section, the transitional regulations have effect according to their terms.
- (4) In subsections (2) and (3) —
specified means specified or described in the transitional regulations.

- (5) If the transitional regulations contain a provision referred to in subsection (3), the provision does not operate so as —
- (a) to affect in a manner prejudicial to any person (other than the State), the rights of that person existing before the day of publication of those regulations; or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication of those regulations.

Defined Terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined Term	Provision(s)
Account	3
acquire	3
appointed day	43
assessed scheme	54A(1)
Authority	3
business arrangement	21(8)
chairperson	3
committee	3
council	3
development	3
dispose of	3
document	30(4)
eligible person	28(2)
environmental condition	54A(1)
EP Act	3
EPA	3
information	30(4)
interest in land	3
land	3
local government	27
member	3
Metropolitan Region Scheme	3
Minister for the Environment	3
officer	53(2)
participate	21(8)
planning schemes	45(3)
public authority	3
redevelopment area	3
redevelopment scheme	3
Registrar	23(7)
relevant qualification	7(2)
street	26(3)
temporary member	3
Western Australian Land Authority	94