

EAST PERTH REDEVELOPMENT ACT 1991

(No. 62 of 1991)

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WESTERN AUSTRALIA

EAST PERTH REDEVELOPMENT ACT 1991

No. 62 of 1991

AN ACT to provide for the redevelopment of certain land in East Perth, and to establish an Authority with planning, development control and other functions in respect of that land.

[Assented to 30 December 1991]

The Parliament of Western Australia enacts as follows:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *East Perth Redevelopment Act 1991*.

Commencement

2. This Act shall come into operation on such day as is fixed by proclamation.

Interpretation

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

“Account” means the East Perth Redevelopment Authority Account referred to in section 49 (2);

“acquire” includes take on lease;

“Authority” means the East Perth Redevelopment Authority;

“chairperson” means the chairperson of the Authority;

“chief executive officer” means the person appointed as such under section 14 (1);

“committee” means a committee established under clause 6 of Schedule 2;

“development” means—

- (a) the erection, construction, demolition, alteration or carrying out of any building, excavation, or other works in, on, over, or under land;
- (b) a material change in the use of land; and
- (c) any other act or activity in relation to land declared by regulation to constitute development,

but does not include any work, act or activity declared by regulation not to constitute development;

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

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

“land” includes—

- (a) a legal or equitable estate or interest in land;
- (b) land covered by water, whether continuously or discontinuously;

“local government authority” means the executive body of a municipality under the *Local Government Act 1960* or a Commissioner appointed under that Act;

“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 meaning assigned to it by the Metropolitan Scheme Act;

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

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

“temporary member” means a person appointed under clause 3 (1) of Schedule 2.

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

Redevelopment area defined

4. (1) The redevelopment area for the purposes of this Act is that described in Schedule 1.

(2) Regulations may be made under section 57 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 shall consult with the community and the council of the City of Perth.

(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 shall be accompanied by an explanatory memorandum showing how and why it is intended to amend the redevelopment scheme 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 (3) showing the boundaries or any boundary of the redevelopment area is evidence of those boundaries or that boundary.

Transitional provisions where area amended

5. (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 34.

(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 38 (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 subsection (2) of section 4 may make further provisions of a transitional nature that are expedient to be made in respect of an amendment of Schedule 1 under that subsection including provision—

- (a) empowering the Minister, where land is subtracted from the redevelopment area, to amend the Metropolitan Region Scheme or a relevant town planning scheme to provide for—
 - (i) the subtracted land to be included in the area to which any such scheme applies; and
 - (ii) the land to have a reservation or zoning under those schemes the same as or similar to that which applied to it immediately before it was subtracted; and
- (b) for the saving of rights existing at the time of the amendment, but subject to any provision of the redevelopment scheme relating to non-conforming uses.

PART 2—EAST PERTH REDEVELOPMENT AUTHORITY

Division 1—Establishment of Authority

Authority established

6. (1) There is established by this subsection a body by the name of the East Perth Redevelopment Authority.

(2) The Authority is a body corporate with perpetual succession and a common seal and is capable of—

- (a) acquiring, holding and disposing of real and personal property;
 - (b) suing and being sued; and
 - (c) doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer.
- (3) The Authority is an agent of the Crown in right of the State.

Membership of Authority

7. (1) The Authority consists of 7 members appointed by the Minister of whom—

- (a) two are to be members of the council of the City of Perth who shall be nominated by formal resolution of that council; and
- (b) each of the others is to be a person who in the opinion of the Minister has a relevant qualification.

(2) A relevant qualification for the purposes of subsection (1) (b) is 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 shall comprise persons who between them have knowledge or experience covering all of the fields mentioned in subsection (2).

(4) The chief executive officer is not to be appointed as a member of the Authority.

Chairperson and deputy chairperson

8. The Minister shall appoint one of the members to be chairperson and another to be deputy chairperson of the Authority.

Constitution and proceedings

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

Remuneration and expenses of members

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

Protection of members and officers

11. A member or any officer of the Authority is not personally liable for any act done or omitted to be done in good faith by the Authority or in the performance of any function under this Act.

Membership not office of profit

12. A person is not by reason only of performing any function under this Act the holder of an office of profit of a municipality for the purposes of section 67 of the *Local Government Act 1960*.

Particular duties of members

13. (1) A member shall at all times act honestly and diligently in performing his or her functions under this Act.

(2) Where 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, he or she shall as soon as possible after the relevant facts have come to his or her knowledge, disclose that he or she has an interest to the other members present at the meeting, and—

- (a) the disclosure shall be recorded in the minutes of the meeting; and
- (b) the member shall not thereafter be present during any consideration or discussion of, and shall not vote on any determination of, the matter.

(3) A member shall 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 such proceedings; or

- (c) in the case of the member appointed under section 7 (1) (a), or a member of a committee who is a member of the council of the City of Perth, in connection with the discharge of his or her duties as a member of that council but then only within a closed committee meeting of that council.

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

(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.

Division 2—Staff

Chief executive officer

14. (1) Subject to section 16, the Minister—

- (a) shall appoint a chief executive officer of the Authority; and
- (b) subject to any relevant order, award or agreement under the *Industrial Relations Act 1979*, may, after consultation with the Public Service Commissioner, determine the remuneration and other terms and conditions of service of the chief executive officer.

(2) The function of the chief executive officer is, subject to the control of the Authority, to administer the day to day operations of the Authority.

Other Staff

15. (1) The Authority may appoint such officers as may be necessary to enable the Authority to perform its functions.

(2) Subject to section 16 and any relevant order, award or agreement under the *Industrial Relations Act 1979*, the Authority may, after consultation with the Public Service Commissioner, determine the remuneration and other terms and conditions of service of persons appointed under subsection (1).

(3) The Authority may engage under a contract for services or other arrangement such consultants and professional or technical or other assistance as it considers necessary to enable the Authority to perform its functions.

Officers in Senior Executive Service

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

Use of staff and facilities of departments, agencies and instrumentalities

17. The Authority may, by arrangement made between it and the Minister concerned, and on such terms and conditions as may be mutually arranged by it with that Minister and with the Public Service 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.

PART 3—FUNCTIONS AND POWERS**Functions**

18. The functions of the Authority are—

- (a) to plan, undertake, promote and co-ordinate the 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.

Powers

19. (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, manage and dispose of land, but only with the approval of the Minister in the case of an acquisition or disposal of land that, in the opinion of the Authority, exceeds \$1 000 000 in value;
- (b) subdivide, amalgamate, improve, develop and alter land;
- (c) subject to subsection (4)—
 - (i) participate in any business arrangement;
 - (ii) acquire, hold and dispose of shares, units or other interests in any business arrangement; and

- (d) enter into any contract or arrangement with a person, including a public authority or a local government authority for the performance by that person or body of any work or the supply of equipment or services.

(3) 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.

(4) In performing its functions the Authority shall have regard to and shall seek to enhance and preserve the colonial heritage and significance of the redevelopment area and its adjacent areas and in particular its powers of expenditure shall extend to the East Perth Cemetery as if it were within the redevelopment area.

(5) Notwithstanding anything in this section or in section 18, the Authority may pay for the carrying out of any work on land that is contiguous with the redevelopment area if the work is in its opinion directly related to the improvement of the redevelopment area or the functions of the Authority.

(6) Any power conferred by subsection (2) (c) is only exercisable with the approval of the Governor in Council and subject to any conditions attached to the approval.

(7) Wherever the Minister or Governor in Council has cause to grant any approval in this section the text of such approval shall be laid before both Houses of Parliament within 28 sitting days after the date on which the approvals are given.

(8) In exercising any power under this section the Authority is not required to comply with section 20 of the *Town Planning and Development Act 1928* but—

- (a) anything that would otherwise require the approval of the State Planning Commission under that section may be done with the approval of the Minister and subject to any conditions attached to the approval;

- (b) before the Minister makes any decision required by paragraph (a) he or she is to seek the advice of the State Planning Commission and consider any advice offered; and
- (c) where this subsection applies, section 21 of the Town Planning Act is to be read as if references to the Commission were references to the Minister.

(9) The annual report submitted by the accountable authority of the Authority under section 66 of the *Financial Administration and Audit Act 1985* shall include a summary of approvals given by the Minister under subsection (2) (a) or the Governor in Council under subsection (6).

(10) 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.

Conditional disposition of land

20. (1) The Authority may attach any condition or restriction to a disposition of land under section 19 (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 of Titles who shall, on payment of the appropriate fee, register the memorial against the relevant land.

(4) A memorial under subsection (3) shall be in a form approved by the Registrar of Titles.

(5) While a memorial is registered under subsection (3), the Registrar of Titles shall not, without the consent in writing of the Authority, register under the *Transfer of Land Act 1893* any instrument affecting the land to which the memorial relates.

(6) The Authority shall, as soon as is practicable after the relevant land ceases to be subject to the condition or restriction to which a memorial relates, by notice in a form approved by the Registrar of Titles withdraw that memorial; and the Registrar shall cancel the memorial accordingly.

Compulsory taking of land

21. (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 the *Public Works Act 1902*, and the Authority is to be taken to be a local authority within the meaning of that Act.

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

- (a) the expression “land” in that Act has the same meaning as it has in section 3 of this Act; and
- (b) sections 17 (2) to (7), and 17A of that Act do not apply; and
- (c) section 29 of that Act does not apply to land in the redevelopment area taken or acquired under that Act 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 authorized by this Act.

Power of Governor to direct transfer to Authority

22. (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 disposition in a piece of land specified in the order.

(2) The power in subsection (1) shall only 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) shall specify the terms and conditions upon and subject to which the transfer is to be made.

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

Permanent closure of streets

23. A street in the redevelopment area may be closed under section 288A of the *Local Government Act 1960* and regulations made under that Act, and for that purpose "council" in that section and in those regulations—

(a) includes the Authority; and

(b) does not include the council of the City of Perth,

in relation to any such street.

Delegation

24. (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;
- (b) the State Planning Commission;
- (c) the chief executive officer of the department principally assisting the Minister to whom the administration of the Town Planning Act is committed in the administration of that Act;
- (d) the Swan River Trust established by section 6 of the *Swan River Trust Act 1988*;
- (e) the Commissioner of Main Roads appointed under section 7 of the *Main Roads Act 1930*; and
- (f) a local government authority.

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

Minister may give directions

25. (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 shall give effect to any such direction.

(2) The text of any direction given under subsection (1) shall be included in the annual report submitted by the accountable authority of the Authority under section 66 of the *Financial Administration and Audit Act 1985* and published in the *Gazette* within 28 days and laid before each House within 14 sitting days of being published if Parliament is in session or within 14 sitting days of the commencement of the next ensuing session.

Minister to have access to information

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

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

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

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

(4) In this section—

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

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

“parliamentary purposes” means the purpose of—

- (a) answering a question asked in a House of Parliament; or
- (b) complying with a written law, or an order or resolution of a House of Parliament, that requires information to be furnished to a House of Parliament.

PART 4—REDEVELOPMENT SCHEME

Authority to comply with redevelopment scheme

27. (1) The Authority shall perform its functions in accordance with a 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 43 (1).

(3) A copy of the redevelopment scheme as for the time being in force shall be kept in the offices of the Authority and shall be available for inspection by the public during office hours free of charge.

Contents of redevelopment scheme

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

Proposed redevelopment scheme

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

(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 shall not be submitted to the Minister unless it was prepared—

- (a) after consultation with the council of the City of Perth (whether that consultation occurred before or after the commencement of this Act); and
- (b) having regard to the views of that council.

(4) The Minister may—

- (a) approve or refuse to approve a proposed redevelopment scheme submitted under this section; or
- (b) approve a scheme subject to modifications made by the Minister.

(5) If the Minister refuses to approve a proposed redevelopment scheme submitted under this section the Minister shall give directions to the Authority as to the preparation of a further scheme to be submitted under this section.

(6) The Authority shall comply with any directions of the Minister under subsection (5).

Proposed scheme to be publicly notified

30. (1) Public notification that a proposed redevelopment scheme has been approved by the Minister shall be given in accordance with subsection (2).

(2) The proposed redevelopment scheme shall be publicly notified by the Authority by the publication—

- (a) in the *Gazette*; and

- (b) in 2 issues of a daily newspaper circulating in the City of Perth,

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 31 and specifying the period referred to in that section.

(3) The Authority may fix and charge a fee for supplying copies of the proposed redevelopment scheme.

Public submissions

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

- (a) within a period determined by the Authority, which period shall be 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.

Approval by Minister

32. (1) The Authority shall submit the proposed redevelopment scheme, with any modifications made under section 31 (2), to the Minister for approval.

(2) The scheme as so submitted shall be accompanied by—

- (a) a summary of all submissions made under section 31; and
- (b) a report of 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 made by the Minister.

(4) If the Minister refuses to approve a proposed redevelopment scheme submitted under this section the Minister shall give directions to the Authority as to the preparation of a further scheme to be submitted under section 29 or under subsection (1) as the Minister may specify.

(5) The Authority shall comply with any directions of the Minister under subsection (4).

Notice of approval

33. (1) Notice that a redevelopment scheme has been approved by the Minister under section 32 shall be published 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 such later day as is specified in the scheme.

(3) The Authority may fix and charge a fee for supplying copies of a redevelopment scheme.

Amendments to scheme

34. (1) A redevelopment scheme may be amended in accordance with this section.

(2) The Authority shall submit any proposed amendment to the Minister.

(3) The following provisions apply for the purposes of this section, with all necessary changes—

- (a) sections 29 (3) and (4), 30 and 32, as if references in those sections to a proposed redevelopment scheme were references to the proposed amendment to the redevelopment scheme;
- (b) sections 29 (5) and (6), as if—
 - (i) the reference to a proposed redevelopment scheme were a reference to the proposed amendment to the redevelopment scheme;
 - (ii) the reference to a further scheme were a reference to another amendment; and
 - (iii) the words “may give” were substituted for “shall give”;
- (c) section 31, as if the reference in that section—
 - (i) to the proposed redevelopment scheme were a reference to a proposed amendment to the redevelopment scheme;
 - (ii) in paragraph (a), to the Authority were a reference to the Minister; and
 - (iii) to 60 days were a reference to 42 days;

and

- (d) section 33, as if references in that section to a redevelopment scheme were references to the amendment to a redevelopment scheme.

Saving

35. A development in respect of which an approval under section 43 is in force immediately before an amendment comes into force under section 34 may be lawfully carried out as if the amendment had not been made.

PART 5—DEVELOPMENT CONTROL

Definition

36. In this Part “appointed day” means the day on which a redevelopment scheme comes into operation under section 33 (2).

Position of Crown

37. This Part binds the Crown.

Disapplication of certain planning schemes

38. (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 is commenced 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

(b) the Metropolitan Region Scheme.

(4) Subsection (2) has effect subject to any provision of the redevelopment scheme relating to non-conforming uses.

Saving

39. (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 38 (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) shall be governed by those schemes notwithstanding subsection (1) of that section.

Development to be approved

40. (1) A person shall not undertake any development or cause any development to be undertaken on land that is in, or partly in, the development 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.

Applications for approval

41. (1) An application for approval under section 40 shall be made to the Authority in the prescribed form, and shall be accompanied by the prescribed fee.

(2) An application shall be accompanied by plans and specifications of the proposed development, and an applicant shall also furnish such information or documents relating to the proposed development as the Authority may reasonably require.

Consultation with other authorities

42. (1) The Authority shall by notice in writing refer particulars of the proposed development to—

(a) 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 council of the City of Perth.

(2) The council of the City of Perth 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 shall not make a decision under section 43 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.

Authority's decision

43. (1) The Authority may having regard to—

- (a) the redevelopment scheme;
- (b) consultations under section 42;
- (c) the requirements of orderly and proper planning; and
- (d) the preservation of the amenities of the area,

grant or refuse to grant approval to the proposed development.

(2) The Authority may attach to an approval any condition that is within the objects of this Act.

(3) The Authority may limit the time for which an approval remains in force.

(4) An approval under this section is in addition to, and does not derogate from, the requirements of any other written law.

(5) The Authority shall cause notice in writing of its decision to be given to the applicant.

(6) The Authority shall cause notice in writing of its decision to be given to the council of the City of Perth and each public authority to which notice was given under section 42 (1) (a).

Referral of certain applications to Minister

44. (1) Where 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 19 (10), the Authority shall consider the application in accordance with section 43 (1) and refer the application and all relevant information to the Minister with a recommendation as to the decision to be made.

(2) Where an application is referred to the Minister under subsection (1)—

- (a) the Minister shall perform the functions of the Authority under section 43; and
- (b) for the purpose of that section and sections 40 and 45 references to the Authority are to be read as references to the Minister.

Appeal

45. (1) An appeal lies from a decision of the Authority under section 43 in accordance with Part V of the Town Planning Act.

(2) An appeal may be allowed with or without conditions, or further conditions may be attached, or the appeal may be rejected in whole or in part.

Liability of directors etc. where offence committed by corporation

46. (1) Where a body corporate is guilty of an offence against section 40 and it is proved that the offence occurred with the consent or connivance of, or was attributable to any neglect on the part of, any director, manager, secretary or other officer of the body, or any person who was purporting to act in any such capacity he or she, as well as the body corporate, is guilty of that offence.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director of the body corporate.

**Power to direct cessation or
removal of unlawful development**

47. (1) The Authority may—

- (a) by notice in writing served on a person who is undertaking any development in contravention of section 40 direct the person to forthwith stop doing so; or
- (b) by notice in writing served on a person who has undertaken any development in contravention of that section, direct the person within such period, being 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 of such directions to a person.

(2) A person on whom a notice is served containing a direction under subsection (1) (b) may, within the period specified in the notice, appeal to the Minister against the direction, and on such an appeal the Minister may confirm, vary or cancel the direction.

(3) A notice containing a direction under subsection (1) (b) is suspended as to that direction pending the determination of the appeal.

(4) The Minister may, where he or she confirms or varies the direction under subsection (2), by notice in writing served on the person, direct the person to comply with the direction as so confirmed or varied, within such period, being not less than 21 days after the service of the notice given by the Minister, as is specified in that notice.

(5) A person shall 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 in any court of competent jurisdiction the costs incurred by it in so doing.

Compensation

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

- (a) the redevelopment scheme were a town planning scheme under that Act;
- (b) the Authority were a local authority or a responsible authority under that Act; and
- (c) in section 12 (3) of that Act, the word “amended” were substituted for “altered or revoked by an order of the Minister under this Act”.

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

- (a) the land were reserved for a public purpose under the Metropolitan Region Scheme;
- (b) references in that Part to the Commission and the Scheme were references to the Authority and to the redevelopment scheme respectively; and
- (c) in section 36 (1) (b) of that Act, “amended” were substituted for “varied, amplified or revoked by the Commission”.

(3) Compensation is not payable under an Act as applied by subsection (1) or (2) if payment has been made for the same or substantially the same injurious affection under that Act as in operation otherwise than as applied by this section.

(4) If a claim for compensation has been made but not disposed of before the appointed day and is one that might have been made under this section the claim may be continued after the appointed day as if it had been made under this section.

PART 6—FINANCIAL PROVISIONS

Funds of Authority

49. (1) The funds available for the purpose of enabling the Authority to perform its functions consist of—

- (a) moneys from time to time appropriated by Parliament;
- (b) moneys received by the Authority from performing any of its functions;
- (c) moneys borrowed by the Authority under section 50 or 51;
- (d) the proceeds of sales by the Authority of land;
- (e) rents derived from land leased by the Authority; and
- (f) other moneys lawfully received by, made available to or payable to the Authority.

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

(3) There shall be paid from the moneys from time to time in the Account—

- (a) interest on and repayments of moneys borrowed by or advanced to the Authority;
- (b) the remuneration and travelling and other allowances payable to members and to the chief executive officer and other officers referred to in section 14; and
- (c) all other expenditure lawfully incurred by the Authority in the performance of its functions.

Borrowing by Authority from Treasurer

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

Borrowing by Authority generally

51. (1) This section is in addition to, and not in derogation from, the provisions of section 50.

(2) The Authority may—

(a) with the prior approval of the Treasurer in writing and on such terms and conditions as the Treasurer approves, borrow moneys for the purpose of performing its functions; and

(b) borrow moneys under this subsection on the guarantee of the Treasurer given under section 52.

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

Guarantee by Treasurer

52. (1) The Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee, in such form and subject to such terms as the Treasurer determines, the payment of any moneys payable by the Authority in respect of moneys borrowed by it under section 51.

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

(a) is hereby guaranteed by the State; and

(b) shall be made by the Treasurer out of the Consolidated Revenue Fund, which to the necessary extent is appropriated 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 which the Treasurer imposes as a term of that guarantee.

(4) The Treasurer shall 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 paid into the Consolidated Revenue Fund.

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

(6) Where a guarantee is given by the Treasurer under subsection (1) the Treasurer shall cause the text of such guarantee to be published in the *Gazette* within 28 days and laid before each House within 14 sitting days of being published if Parliament is in session or within 14 sitting days of the commencement of the next ensuing session.

Application of Financial Administration and Audit Act 1985

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

Surplus

54. Subject to section 14 of the *Financial Administration and Audit Act 1985*, any surplus in the Account at the end of any financial year may be applied by the Authority for the purposes of this Act.

PART 7—GENERAL

Modification of other laws

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

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

Execution of documents by Authority

56. (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) and (3); or
- (b) it is signed on behalf of the Authority by the member or members or officer or officers of the Authority authorized by the Authority to do so.

(2) The common seal of the Authority shall not be affixed to any document except by resolution of the Authority.

(3) The common seal of the Authority shall be affixed to a document in the presence of the chairperson and another member, or the chairperson and the chief executive officer, and each of them shall sign the document to attest that the common seal was so affixed.

(4) A document purporting to be executed in accordance with this section shall be presumed to be duly executed until the contrary is shown.

(5) When a document is produced bearing a seal purporting to be the common seal of the Authority, it shall be presumed that that seal is the common seal of the Authority until the contrary is shown.

(6) All courts and persons acting judicially shall take notice of the common seal of the Authority.

Regulations

57. (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 such applications.

Review of Act

58. (1) The Minister shall carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiration of 5 years from its commencement, and in the course of that review the Minister shall consider and have regard to—

- (a) the effectiveness of the operations of the Authority;
- (b) the need for the continuation of the functions of the Authority; and

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

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

Consequential amendments

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

SCHEDULE 1

(Section 4)

REDEVELOPMENT AREA

All of the land and waters in the area described as the redevelopment area on Plan No. 1 held at the office of the Authority, that plan being certified by the Minister as being the plan prepared for the purpose of defining the redevelopment area.

For guidance, the redevelopment area may be described as the land and waters bounded—

(a) to the south by a line that—

- (i) is an extension of the southern boundary of Wellington Street for 100 metres into the Swan River and that follows the southern boundary of Wellington Street to the point where it intersects a line drawn approximately 100 metres west of Plain Street;
- (ii) is then drawn approximately 100 metres west of Plain Street to the point where the line intersects the southern boundary of Wittenoom Street; and
- (iii) then follows the southern boundary of Wittenoom Street to the western boundary of Lord Street;

(b) to the west, by Lord Street;

(c) to the north, by Summers Street and an extension of the northern boundary of that street for 100 metres into the Swan River; and

(d) to the east, by a line that is drawn by joining the end of the extended boundary of Summers Street to the end of the extended boundary of Wellington Street.

SCHEDULE 2

(Section 9)

PROVISIONS AS TO CONSTITUTION AND
PROCEEDINGS OF THE AUTHORITY

Term of office

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

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

Resignation, removal, etc.

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

- (a) resigns the office by written notice addressed to the Minister;
- (b) is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy; 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 duties and proved to the satisfaction of the Governor.
- (d) in the case of a member appointed under section 7 (1) (a) ceases to be a member of the council of the City of Perth.

Temporary members

3. (1) Where 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) Where 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 shall 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.

Chairperson and deputy chairperson

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

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

(2) During any vacancy in the office of chairperson or while he or she is unable to act by reason of sickness, absence or other cause, the deputy chairperson shall perform the functions of the chairperson.

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

Meetings

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

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

(3) The chairperson shall 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 shall appoint one of their number to preside.

(5) A quorum for a meeting of the Authority is 4 members.

(6) At any meeting of the Authority the chairperson, deputy chairperson or other person presiding shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.

(7) The Authority shall cause accurate minutes to be kept of the proceedings at its meetings.

Committees

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

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

(3) Persons appointed under subclause (1) are subject to the provisions of section 13.

Resolution may be passed without meeting

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

Leave of absence

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

Authority to determine own procedures

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

SCHEDULE 3

(Section 59)

CONSEQUENTIAL AMENDMENTS

<i>Short title of Act</i>	<i>Amendment</i>
1. <i>Constitution Acts Amendment Act 1899</i>	In Part 3 of Schedule V, insert in the appropriate alphabetical position the following— “ The East Perth Redevelopment Authority established by the <i>East Perth Redevelopment Act 1991</i> . ”.
2. <i>Parliamentary Commissioner Act 1971</i>	In the Schedule, insert in the appropriate alphabetical position the following— “ East Perth Redevelopment Authority established by the <i>East Perth Redevelopment Act 1991</i> . ”.

*Short title of Act**Amendment*3. *Public Service Act 1978*

In the Schedule, insert after item 6 the following item—

“ 6A. East Perth Redevelopment Authority established by the *East Perth Redevelopment Act 1991*. ”.

4. *Financial Administration and Audit Act 1985*

In Schedule 1, insert in the appropriate alphabetical position the following—

“ East Perth Redevelopment Authority. ”.

5. *Government Employees Superannuation Act 1987*

In Schedule 1, in Part B, insert in the appropriate alphabetical position the following—

“ East Perth Redevelopment Authority. ”.

6. *Metropolitan Region Town Planning Scheme Act 1959*

1. In section 32A—

- (a) insert after the section designation “ 32A. ” the subsection designation “ (1) ”; and

- (b) insert the following subsection—

“ (2) Without limiting section 38 of the *East Perth Redevelopment Act 1991*, the Scheme shall not be amended under section 33 or 33A of this Act to make any provision in respect of land in the redevelopment area under that Act so long as there is in operation in respect of that land a redevelopment scheme under Part 4 of that Act. ”.

2. In section 38, insert the following subsection—

“ (4) The Commission is also authorized to apply money in the Fund to payment of expenditure required for the purpose of carrying out the *East Perth Redevelopment Act 1991*. ”.

Short title of Act

Amendment

7. *Swan River Trust Act 1988* In section 49, insert the following subsection—

“ (4) This Part does not apply to a development that is proposed to be undertaken in respect of land that is wholly in the redevelopment area within the meaning in the *East Perth Redevelopment Act 1991* so long as there is in operation in respect of that land a redevelopment scheme under Part 4 of that Act. ”.

8. *Town Planning and Development Act 1928*

1. In section 6 insert the following subsection—

“ (4) A town planning scheme shall not be made under this Act for any land that is in the redevelopment area within the meaning in the *East Perth Redevelopment Act 1991* so long as there is in operation in respect of that land a redevelopment scheme under Part 4 of that Act. ”.

2. In section 31, after subsection (2), insert the following subsection—

“ (2a) In subsection (2) reference to a town planning scheme includes a reference to a redevelopment scheme approved under Part 4 of the *East Perth Redevelopment Act 1991*. ”.

3. In section 37, in the definition of “appeal”, insert after paragraph (b) the following paragraph—

“ (ba) an appeal under section 45 of the *East Perth Redevelopment Act 1991*; ”.