



New South Wales

Transport Administration Amendment (Metro Rail) Bill 2008

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Transport Administration Act 1988* to facilitate the development, implementation and operation of metro railway systems by constituting Sydney Metro, a statutory authority having the function of developing metro railway systems and other related functions, and to provide generally for its management and functions.

The Bill also makes consequential amendments to other Acts.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Transport Administration Act 1988* (the *Transport Act*) set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the other Acts set out in Schedule 2.

Clause 5 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Transport Administration Act 1988

Schedule 1 [1] amends the long title to the Transport Act to include a reference to Sydney Metro.

Schedule 1 [2] amends section 3 of the Transport Act to insert definitions of *metro railway* and *metro railway system*.

Schedule 1 [3] amends section 3 of the Transport Act to exclude metro railway systems from being included in the NSW rail network for the purposes of that Act. The effect of this is that provisions relating to access to the NSW rail network and network control will not apply to metro railway systems.

Schedule 1 [4] amends section 3 of the Transport Act to include Sydney Metro as a rail infrastructure owner in relation to rail infrastructure that it manages or controls for the purpose of exercising its functions under that Act. It will also be a rail infrastructure owner in relation to rail infrastructure that is vested in it.

Schedule 1 [5] amends section 3 of the Transport Act to insert a definition of *Sydney Metro*.

Schedule 1 [6] amends section 3A of the Transport Act to make a consequential amendment.

Schedule 1 [7] inserts proposed Part 6A (Sydney Metro) into the Transport Act.

Proposed Division 1 of Part 6A (proposed section 55A) defines words and expressions used in the proposed Part, including the expression *develop a metro railway system*. That term includes carrying out development for the purposes of a metro railway system, facilitating, managing, financing or maintaining such a system and ancillary functions.

Proposed Division 2 of Part 6A (proposed section 55B) constitutes Sydney Metro as a corporation that is a NSW Government agency. Its staff will be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

Proposed Division 3 of Part 6A (proposed sections 55C–55E) confers functions on Sydney Metro. The functions include developing metro railway systems, holding, managing and maintaining rail infrastructure facilities for metro railways and entering into arrangements with other persons for the provision of metro railway passenger services, the operation of metro railway systems or the development, management and control or maintenance of metro railway systems and charging fees or making arrangements for fares for metro railway passenger services. The proposed

Division also enables Sydney Metro to prepare station plans for development around metro railway stations and gives it power to acquire land by agreement or compulsory process.

Proposed Division 4 of Part 6A (proposed sections 55F–55P) contains provisions relating to the management of Sydney Metro, similar to those applicable to other statutory corporations under the Transport Act. There is to be a Sydney Metro Board, comprising the Chief Executive Officer, 3 members appointed by the Minister for Transport and 1 member appointed on the nomination of the Treasurer, which is to determine the policies of Sydney Metro. The Chief Executive Officer is to manage and control the affairs of Sydney Metro in accordance with the policies of the Sydney Metro Board and the Minister may give written directions to the Sydney Metro Board in relation to the exercise of Sydney Metro's functions. Sydney Metro must prepare a corporate plan for each financial year and provide it to the Minister, as well as make it available for public comment, before it is finalised. Sydney Metro may also exercise functions through a subsidiary corporation or in a partnership, joint venture or other association with other persons or bodies. The proposed Division also provides for the creation of public subsidiary corporations of Sydney Metro and sets out conditions on which Sydney Metro may create private subsidiary corporations. Sydney Metro may also delegate its functions.

Proposed Division 5 of Part 6A (proposed sections 55Q–55S) contains various provisions. It makes it an offence for a person to use commercial information gained in the administration or execution of the proposed Part for the person's own advantage or the advantage of a spouse, de facto partner, relative or associate. The proposed Division also contains a provision that authorises agreements entered into by Sydney Metro, or approved by it, relating to metro railway systems and related conduct, as agreements or conduct that will not be a contravention of Part IV (Restrictive trade practices) of the *Trade Practices Act 1974* of the Commonwealth or the *Competition Code of New South Wales*. The proposed Division also provides that the consent of a council that is the relevant roads authority will not be required for works done by Sydney Metro in relation to a classified road for the purpose of exercising its functions under the Transport Act, although consent by the Roads and Traffic Authority will be required.

Schedule 1 [9] amends section 56 of the Transport Act to apply the provisions of that Act relating to staff of transport authorities (including entitlements to long service leave) to the staff of Sydney Metro. **Schedule 1 [8]** makes a consequential amendment.

Schedule 1 [10] inserts proposed Division 2A of Part 8 (proposed sections 76A–76C). The proposed Division establishes the Sydney Metro Fund and makes provision for payments to and from that Fund in connection with the funding and functions of Sydney Metro.

Schedule 1 [11] amends section 89 of the Transport Act to apply miscellaneous provisions of that Act that apply to other rail authorities, such as RailCorp, to Sydney Metro. The provisions include a provision limiting the compensation payable by a rail authority, a provision enabling the Minister to transfer assets, rights and liabilities of a rail authority, a provision enabling a person to be a member of a board of more than one rail authority, provisions conferring rights and obligations in relation to rail infrastructure and a provision enabling the Minister to delegate functions to the chief executive officer of a rail authority.

Schedule 1 [12] amends section 89 of the Transport Act to omit a redundant definition.

Schedule 1 [13] amends section 89 of the Transport Act to apply miscellaneous provisions of that Act that apply to State rail operators, such as RailCorp, to Sydney Metro. The provisions include a provision enabling regulations to be made about matters such as safety and security and parking offences on State rail operator land and a provision conferring enforcement and investigation powers on authorised officers of State rail operators.

Schedule 1 [14] amends section 94 of the Transport Act to include local councils in the public authorities to which assets, rights and liabilities of rail authorities may be transferred by Ministerial order.

Schedule 1 [15] amends section 99A of the Transport Act to exclude Sydney Metro from the prohibition on the closure of railway lines other than with the authorisation of an Act of Parliament.

Schedule 1 [16] amends section 107 of the Transport Act to apply miscellaneous provisions of that Act that apply to other transport authorities, such as the State Transit Authority, to Sydney Metro. The provisions include provisions relating to the seal of the authority, a provision conferring contractual powers, a provision relating to liability, a provision validating acts done by an authority that contravene a Ministerial direction and a provision enabling charges and fees to be recovered in civil debt proceedings.

Schedule 1 [17] amends section 112 of the Transport Act to make it clear that the exclusion from personal liability extends to omissions.

Schedule 1 [18] and [19] amend section 112 of the Transport Act to extend the protection from personal liability conferred by that section to the Chief Executive Officer of Sydney Metro and to members of the Sydney Metro Board.

Schedule 1 [20] amends section 116 of the Transport Act to extend the provisions that make the owner of a vehicle used in a parking offence guilty of a parking offence (whether or not the owner committed the actual offence) to parking offences committed on land vested in Sydney Metro.

Schedule 1 [21] inserts proposed Schedule 2B into the Transport Act. The proposed Schedule contains machinery provisions relating to the constitution and procedure, and the Chief Executive Officer, of Sydney Metro.

Schedule 1 [22] and [23] amend Schedule 4 to the Transport Act to make it clear that orders transferring the assets, rights and liabilities of transport authorities include assets, rights and liabilities that may or may not be personal or assignable.

Schedule 1 [24] amends Schedule 4 to the Transport Act to make it clear that entitlements and obligations in relation to transferred assets, rights and liabilities, that would have been those of the transferor and that arise after the transfer, are also transferred to the transferee when a transfer order to which that Schedule applies is made, whether or not they are actual or potential when the order takes effect.

Schedule 1 [25] amends Schedule 5 to the Transport Act as a consequence of the application of provisions relating to long service leave to the staff of Sydney Metro.

Schedule 1 [26] amends Schedule 6A to the Transport Act to include Sydney Metro as a rail infrastructure owner in relation to rail infrastructure that it manages or controls for the purpose of exercising its functions under that Act. It will also be a rail infrastructure owner in relation to rail infrastructure that is vested in it.

Schedule 1 [27] amends Schedule 6A to the Transport Act to apply the provisions of that Schedule (which confers powers relating to rail infrastructure facilities and land on rail authorities) to Sydney Metro.

Schedule 1 [28] amends Schedule 6A to the Transport Act to make Sydney Metro the owner of all rail infrastructure facilities installed by Sydney Metro or vested in or transferred to Sydney Metro (whether or not the place on which the facilities are situated is owned by Sydney Metro).

Schedule 1 [29] amends Schedule 6A to the Transport Act to make it clear that the powers to enter land for purposes connected with the functions of Sydney Metro include power to enter land for the purpose of carrying out geotechnical surveys.

Schedule 1 [30] amends Schedule 6B to the Transport Act to apply the provisions of that Schedule (which confers powers relating to underground rail facilities) to Sydney Metro.

Schedule 1 [31] amends Schedule 7 to the Transport Act to enable regulations containing savings and transitional provisions to be made consequent on the enactment of the proposed Act.

Schedule 1 [32] amends Schedule 7 to the Transport Act to insert a transitional provision.

Schedule 2 Amendment of other Acts

2.1 Electricity Supply Act 1995 No 94

Schedule 2.1 [1] amends section 106 of the *Electricity Supply Act 1995* to enable regulations to be made exempting Sydney Metro from provisions of that Act requiring distribution network service providers to connect premises using customer connection contracts and from other provisions relating to contract requirements and

consultative committees. Sydney Metro is made a distribution network service provider under that Act by being included as a provider of a rail network electricity system by the amendment made by **Schedule 2.1 [2]**.

2.2 Local Government Act 1993 No 30

Schedule 2.2 [1] amends section 555 of the *Local Government Act 1993* to make land vested in or owned by Sydney Metro, in, on or over which rail infrastructure facilities are installed, exempt from rates.

Schedule 2.2 [2] amends section 600 of that Act to make Sydney Metro eligible for a rebate of rates on land that is vested in it.

Schedule 2.2 [3] amends section 742 of that Act to extend dispute resolution procedures for disputes between councils and government bodies to Sydney Metro.

2.3 Pipelines Act 1967 No 90

Schedule 2.3 amends section 3 of the *Pipelines Act 1967* to make Sydney Metro a public authority for the purposes of that Act. The effect of this is that Sydney Metro will not be required to hold a licence in respect of any pipeline it constructs and must be notified of applications for pipeline licences and other matters.

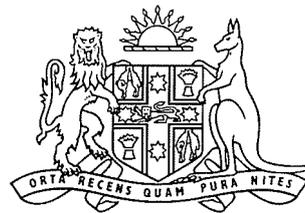
2.4 Public Sector Employment and Management Act 2002 No 43

Schedule 2.4 [1] amends Schedule 1 to the *Public Sector Employment and Management Act 2002* to establish a new Division within the Government Service for staff of Sydney Metro. **Schedule 2.4 [2]** makes a consequential amendment.

2.5 Roads Act 1993 No 33

Schedule 2.5 amends the *Roads Act 1993* to prevent a roads authority from carrying out drainage work in or on which rail infrastructure facilities of Sydney Metro are situated.

First print



New South Wales

Transport Administration Amendment (Metro Rail) Bill 2008

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Transport Administration Act 1988 No 109	2
4 Amendment of other Acts	2
5 Repeal of Act	2
Schedule 1 Amendment of Transport Administration Act 1988	3
Schedule 2 Amendment of other Acts	25



New South Wales

Transport Administration Amendment (Metro Rail) Bill 2008

No. , 2008

A Bill for

An Act to amend the *Transport Administration Act 1988* and other Acts to establish Sydney Metro and to facilitate the development, implementation and operation of metro railway systems in the State.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Transport Administration Amendment (Metro Rail) Act 2008</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6
3 Amendment of Transport Administration Act 1988 No 109	7
The <i>Transport Administration Act 1988</i> is amended as set out in Schedule 1.	8 9
4 Amendment of other Acts	10
The Acts specified in Schedule 2 are amended as set out in that Schedule.	11 12
5 Repeal of Act	13
(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.	14 15
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	16 17

Schedule 1	Amendment of Transport Administration Act 1988	1
		2
	(Section 3)	3
[1] Long title		4
	Omit “and the Roads and Traffic Authority”.	5
	Insert instead “, the Roads and Traffic Authority and Sydney Metro”.	6
[2] Section 3 Definitions		7
	Insert in alphabetical order in section 3 (1):	8
	<i>metro railway</i> means a guided system designed to transport passengers on a railway track, together with its infrastructure and associated sidings, that:	9
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	(a) provides high-frequency commuter and other passenger services, and	12
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	(b) is operated using automated systems, that are integrated with trains, from one or more central control points, and	14
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	(c) is operated using dedicated rail infrastructure facilities that are not operationally connected with other types of rail infrastructure facilities.	16
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	<i>metro railway system</i> means:	19
	(a) a metro railway and its rail infrastructure facilities, and	20
	(b) stations, platforms, maintenance facilities, depots and other transport interchanges, works, structures and facilities associated with or incidental to the metro railway or rail infrastructure facilities (including commercial and retail facilities).	21
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[3] Section 3 (1), definition of “NSW rail network”		26
	Insert “, but does not include any part of a metro railway system” after “controlled”.	27
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[4] Section 3 (1), definition of “rail infrastructure owner”		29
	Insert after paragraph (b):	30
	(b1) in the case of any rail infrastructure facilities that are managed or controlled by Sydney Metro for the purposes of exercising its functions under this Act, Sydney Metro, or	31
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[5] Section 3 (1)	1
Insert in alphabetical order:	2
<i>Sydney Metro</i> means Sydney Metro constituted under this Act.	3
[6] Section 3A Metropolitan rail area	4
Omit “or RailCorp” from section 3A (6).	5
Insert instead “, RailCorp or Sydney Metro”.	6
[7] Part 6A	7
Insert after Part 6:	8
Part 6A Sydney Metro	9
Division 1 Interpretation	10
55A Definitions	11
(1) In this Part:	12
<i>Chief Executive Officer</i> means the Chief Executive Officer of Sydney Metro.	13
<i>develop a metro railway system</i> includes:	14
(a) carry out development for the purposes of a metro railway system, and	15
(b) facilitate, manage, finance or maintain any such development, and	16
(c) carry out any function ancillary to any such development.	17
<i>development</i> means development within the meaning of the <i>Environmental Planning and Assessment Act 1979</i> , a project (within the meaning of Part 3A of that Act) or an activity (within the meaning of Part 5 of that Act).	18
(2) In this Part, a reference to a metro railway system includes a reference to part of a metro railway system.	19
Division 2 Constitution of Sydney Metro	20
55B Constitution of Sydney Metro	21
(1) There is constituted by this Act a corporation with the corporate name of Sydney Metro.	22
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- (2) Sydney Metro is a NSW Government agency. 1
 - (3) Sydney Metro cannot employ any staff. 2
- Note.** Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable Sydney Metro to exercise its functions. 3
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Division 3 Functions of Sydney Metro 6

55C Development of metro railway systems and associated projects 7

- (1) The principal functions of Sydney Metro are: 8
 - (a) to develop metro railway systems, and 9
 - (b) to hold, manage and maintain rail infrastructure facilities of metro railways, and 10
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 - (c) to carry out development, or facilitate, manage or finance development, on land located on, or in the vicinity of, metro railway systems, and 12
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 - (d) to enter into leases or licences, or other arrangements, with persons for the provision of safe and reliable metro railway passenger services or the operation of metro railway systems or other transport systems, and 15
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 - (e) if any such arrangements have not been made or are, for any reason, not in place, to provide safe and reliable metro railway passenger services or operate metro railway systems, and 19
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 - (f) to enter into leases or licences, or other arrangements, with persons for the development, management and control or maintenance of metro railway systems, and 23
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 - (g) without limiting paragraph (d) or (e) and subject to this and any other Act, to make arrangements with respect to fares to be charged for, and to charge fares for, metro railway passenger services, 26
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in an efficient, effective and financially responsible manner. 30
- (2) Sydney Metro also has the following functions: 31
 - (a) to hold, manage, maintain and establish assets associated with metro railway systems and associated transport projects, 32
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34
 - (b) to conduct businesses related to its principal functions, 35
 - (c) to provide facilities or services that are ancillary to or incidental to its principal functions, 36
37
 - (d) to acquire and develop any land, 38

(e)	to acquire or build, and maintain or dispose of, any engines, carriages, vehicles, plant, machinery or equipment,	1 2 3
(f)	to make and enter into contracts or arrangements for the carrying out of works or the performance of services or the supply of goods or materials,	4 5 6
(g)	to make and enter into contracts or arrangements with any person for the operation by that person, on such terms as may be agreed on, of any of Sydney Metro's metro railway or other transport services, or any of Sydney Metro's businesses,	7 8 9 10 11
(h)	to appoint agents, and act as agents for other persons,	12
(i)	to charge an agreed or reasonable amount for any service provided by it (other than metro railway passenger services).	13 14 15
(3)	Sydney Metro has such other functions as are conferred or imposed on it by or under this or any other Act.	16 17
55D	Metro railway station plans	18
(1)	Sydney Metro may, for the purpose of developing a metro railway system, prepare station plans for land on which metro railway stations are to be situated, and land in the vicinity of such metro railway stations, with respect to the following matters:	19 20 21 22
(a)	development on the land, including development for integrated transport facilities such as bus or other transport interchanges,	23 24 25
(b)	traffic and parking management arrangements,	26
(c)	pedestrian links and access facilities,	27
(d)	retail and commercial development associated with metro railway stations,	28 29
(e)	public domain amenities and improvements,	30
(f)	station design and amenity,	31
(g)	other matters ancillary to the operation of metro railway stations and any associated transport or other facilities.	32 33
(2)	Sydney Metro is to consult with other relevant public authorities when preparing a station plan or an amendment to a plan.	34 35
(3)	Sydney Metro may provide a station plan to the Minister for Planning and other relevant public authorities in connection with the exercise by the Minister or authorities of statutory and other functions relating to the land concerned.	36 37 38 39

55E	Acquisition of land by Sydney Metro	1
(1)	Sydney Metro may, for any purposes of Sydney Metro, acquire land (including an interest in land) by agreement or by compulsory process in accordance with the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> .	2 3 4 5
(2)	The other purposes for which land may be acquired under subsection (1) include for the purposes of a future sale, lease or disposal, that is, to enable Sydney Metro to exercise its functions in relation to land under this Act.	6 7 8 9
(3)	For the purposes of the <i>Public Works Act 1912</i> , any such acquisition of land is taken to be an authorised work and Sydney Metro is, in relation to that authorised work, taken to be the Constructing Authority.	10 11 12 13
(4)	Sydney Metro may not give a proposed acquisition notice under the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> without the approval of the Minister.	14 15 16
(5)	Any such acquisition is not void merely because it is expressed to be for the purposes of Sydney Metro or for the purposes of this Act.	17 18 19
(6)	Part 3 of the <i>Public Works Act 1912</i> does not apply in respect of works constructed for the purposes of this section.	20 21
Division 4	Management of Sydney Metro	22
55F	Constitution of Sydney Metro Board	23
(1)	There is constituted a Sydney Metro Board.	24
(2)	The Board is to consist of:	25
(a)	the Chief Executive Officer of Sydney Metro, and	26
(b)	1 member appointed by the Minister on the nomination of the Treasurer, and	27 28
(c)	3 other members appointed by the Minister.	29
(3)	Part 1 of Schedule 2B has effect with respect to the constitution and procedure of the Board.	30 31
55G	Board to determine policies of Sydney Metro	32
(1)	The Sydney Metro Board has the function of determining the policies of Sydney Metro.	33 34

(2)	In exercising that function, the Board is, as far as practicable, to ensure that the activities of Sydney Metro are carried out properly and efficiently.	1 2 3
55H	Chief Executive Officer of Sydney Metro	4
(1)	The Governor may appoint a Chief Executive Officer of Sydney Metro.	5 6
(2)	Part 2 of Schedule 2B has effect with respect to the Chief Executive Officer.	7 8
55I	Chief Executive Officer to manage Sydney Metro	9
(1)	The affairs of Sydney Metro are to be managed and controlled by the Chief Executive Officer in accordance with the policies of the Sydney Metro Board.	10 11 12
(2)	Any act, matter or thing done in the name of, or on behalf of, Sydney Metro by the Chief Executive Officer is taken to have been done by Sydney Metro.	13 14 15
55J	Ministerial control	16
(1)	The Minister may give the Sydney Metro Board written directions in relation to the exercise of Sydney Metro's functions.	17 18
(2)	Subject to this section, the Board and the Chief Executive Officer must ensure that Sydney Metro complies with any such direction.	19 20
(3)	If the Sydney Metro Board considers that:	21
(a)	Sydney Metro would suffer a significant financial loss as a result of complying with any such direction, and	22 23
(b)	the direction is not in the commercial interests of Sydney Metro,	24 25
	the Board may request the Minister to review the decision.	26
(4)	A request for a review must be made within 7 days after the direction is given or within such other reasonable period as the Minister determines.	27 28 29
(5)	If the Board requests a review, Sydney Metro is not required to comply with the direction until notified of the Minister's decision following the review.	30 31 32
(6)	Following the review the Minister may confirm or revoke the direction, but the Minister must not confirm the direction unless:	33 34
(a)	the Minister has estimated the financial loss concerned from information supplied by Sydney Metro or from other sources, and	35 36 37

(b)	the Minister has referred the matter to the Treasurer, and	1
(c)	the Treasurer has approved of the financial loss being reimbursed from public revenue.	2 3
(7)	Subsections (3)–(6) do not apply to a direction that may cause Sydney Metro to suffer a significant financial loss as a result of complying with that direction if:	4 5 6
(a)	the Minister decides that the direction is warranted on grounds involving urgency or public safety, and	7 8
(b)	the direction is given after consultation with the Treasurer.	9
(8)	The Treasurer may approve of any financial loss resulting from a direction referred to in subsection (7) being reimbursed from public revenue.	10 11 12
(9)	For the purposes of this section, the amount of the financial loss that Sydney Metro suffers as a result of complying with a direction includes the amount of expenditure that Sydney Metro incurs, and the amount of revenue that Sydney Metro forgoes, as a result of complying with the direction which it would not otherwise incur or forgo.	13 14 15 16 17 18
(10)	The amount to be reimbursed to Sydney Metro is to be paid, from money advanced by the Treasurer or appropriated by Parliament for that purpose, at such times and in such amounts as the Treasurer determines after receiving advice from the Minister on the estimated financial loss incurred by Sydney Metro from time to time.	19 20 21 22 23 24
55K	Sydney Metro to supply information to Minister	25
	Sydney Metro must:	26
(a)	supply the Minister or a person nominated by the Minister with any information relating to its activities that the Minister or person may require, and	27 28 29
(b)	keep the Minister informed of the general conduct of its activities, and of any significant development in its activities.	30 31 32
55L	Corporate plans	33
(1)	Sydney Metro must, at least 3 months before the beginning of each financial year of Sydney Metro, prepare and deliver to the Minister a draft corporate plan for the financial year.	34 35 36

- (2) Sydney Metro must: 1
- (a) consider any comments on the draft corporate plan that were made by the Minister within 2 months after the draft plan was delivered to the Minister, and 2
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 - (b) deliver the completed corporate plan to the Minister before the beginning of the financial year concerned. 5
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- (3) During the preparation of a corporate plan after the commencement of this subsection, Sydney Metro is to make a draft plan available for public comment for at least 30 days and is to have regard to any submissions it receives about the draft plan within that period. The arrangements for obtaining or inspecting the draft plan and for making submissions are to be advertised in a daily newspaper circulating throughout the State. 7
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- (4) Sydney Metro is to make the completed corporate plan available for public inspection. However, Sydney Metro is not required to include in any draft or completed plan made available for public comment or inspection information that is of a commercially sensitive nature or that it would otherwise not be required to disclose under the *Freedom of Information Act 1989*. 14
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- (5) Sydney Metro must, as far as practicable, exercise its functions in accordance with the relevant corporate plan. 20
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- (6) A corporate plan is to specify: 22
- (a) the separate activities of Sydney Metro and, in particular, the separate commercial and non-commercial activities, and 23
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 - (b) the objectives of each such separate activity for the financial year concerned and for future financial years, and 26
27
 - (c) the strategies, policies and budgets for achieving those objectives in relation to each such separate activity, and 28
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 - (d) the targets and criteria for assessing the Sydney Metro's performance. 30
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- (7) This section is subject to any requirement made by or under this Act (including the requirements of any direction by the Minister under this Division). 32
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55M	Exercise of functions through subsidiary corporations, joint ventures etc	1
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(1)	In this section:	3
	<i>subsidiary corporation</i> means:	4
(a)	a public subsidiary corporation referred to in section 55N, or	5 6
(b)	a private subsidiary corporation referred to in section 55O.	7
(2)	Any function of Sydney Metro may be exercised:	8
(a)	by Sydney Metro itself, or	9
(b)	by a subsidiary corporation, or	10
(c)	by Sydney Metro or a subsidiary corporation, or both, in a partnership, joint venture or other association with other persons or bodies.	11 12 13
55N	Public subsidiary corporations	14
(1)	In this section:	15
	<i>public subsidiary corporation</i> means a corporation constituted in accordance with this section.	16 17
(2)	The regulations may constitute a corporation for the purposes of this section with the corporate name specified in the regulations.	18 19
(3)	A public subsidiary corporation:	20
(a)	has such of the functions of Sydney Metro as are specified in the regulations or delegated to it under this Act, and	21 22
(b)	is, for the purposes of any Act, a NSW Government agency.	23 24
(4)	The provisions of or made under this Act or any other Act relating to Sydney Metro apply to and in respect of a public subsidiary corporation in such manner and to such extent as are prescribed by the regulations.	25 26 27 28
(5)	With the approval of the Minister:	29
(a)	Sydney Metro may transfer any of its assets, rights or liabilities to a public subsidiary corporation, and	30 31
(b)	a public subsidiary corporation may transfer any of its assets, rights or liabilities to Sydney Metro or to another public subsidiary corporation.	32 33 34
(6)	The regulations may make provision for or with respect to the vesting of those assets, rights and liabilities in the transferee without any transfer, conveyance or assignment.	35 36 37

(7)	A public subsidiary corporation is dissolved by the repeal of the regulations by which it is constituted (unless continued in existence by the regulations), and on any such dissolution the assets, rights and liabilities of the corporation become the assets, rights and liabilities of Sydney Metro.	1 2 3 4 5
55O	Private subsidiary corporations etc	6
(1)	In this section:	7
	<i>private corporation</i> means a corporation within the meaning of the <i>Corporations Act 2001</i> of the Commonwealth formed in or outside New South Wales.	8 9 10
	<i>private subsidiary corporation</i> means a private corporation in which Sydney Metro has a controlling interest.	11 12
(2)	Sydney Metro may, subject to subsection (3):	13
	(a) form, or participate in the formation of, private corporations, and	14 15
	(b) acquire interests in private corporations, and	16
	(c) sell or otherwise dispose of interests in private corporations,	17 18
	whether or not the activities or proposed activities of any such private corporation are related to metro railways.	19 20
(3)	Sydney Metro must not, without the approval of the Minister:	21
	(a) form, or participate in the formation of, a private subsidiary corporation, or	22 23
	(b) acquire an interest in a private corporation so that, as a result of the acquisition, the corporation becomes a private subsidiary corporation, or	24 25 26
	(c) sell or otherwise dispose of any interest in a private subsidiary corporation so that, as a result of the sale or disposal, it ceases to be a private subsidiary corporation.	27 28 29
(4)	A private subsidiary corporation is not a NSW Government agency.	30 31
55P	Delegation of functions of Sydney Metro	32
(1)	Sydney Metro may delegate to an authorised person any of its functions, other than this power of delegation.	33 34
(2)	A delegate may sub-delegate to an authorised person any function delegated by Sydney Metro if the delegate is authorised in writing to do so by Sydney Metro.	35 36 37

(3)	In this section, <i>authorised person</i> means:	1
(a)	an officer of Sydney Metro, or	2
(b)	a person of a class prescribed by the regulations or approved by the Sydney Metro Board.	3 4
 Division 5 General		 5
55Q	Misuse of information	6
(1)	A person must not use, either directly or indirectly, commercial information acquired by the person in the administration or execution of this Part for the purpose of gaining either directly or indirectly any financial advantage for the person, the person's spouse or de facto partner, a relative of the person or any other associate of the person.	7 8 9 10 11 12
	Maximum penalty: 50 penalty units.	13
(2)	In this section:	14
	<i>commercial information</i> means information that is not generally known but if generally known might reasonably be expected to affect materially the market value or price of any land or to influence materially the success of any tender for a contract with Sydney Metro.	15 16 17 18 19
	<i>de facto partner</i> means the other party to a de facto relationship within the meaning of the <i>Property (Relationships) Act 1984</i> .	20 21
55R	Authorisations for section 51 of the Trade Practices Act 1974 (Cth) and Competition Code	22 23
(1)	The following agreements and conduct are specifically authorised by this Act for the purposes of section 51 of the <i>Trade Practices Act 1974</i> of the Commonwealth and the <i>Competition Code of New South Wales</i> :	24 25 26 27
(a)	any agreements entered into by Sydney Metro, or by a person or body with the approval or authority of Sydney Metro, relating to or in connection with a metro railway system,	28 29 30 31
(b)	the conduct of the parties in entering into any such agreements,	32 33
(c)	the conduct of the parties in performing any such agreements and any matter or thing done or omitted to be done by any of the parties in performing any such agreements.	34 35 36 37

(2)	In this section, <i>agreement</i> includes a contract, arrangement or understanding.	1 2
55S	Roads authority consent not required to certain work by Sydney Metro	3 4
(1)	Section 138 of the <i>Roads Act 1993</i> does not apply to anything done by Sydney Metro in relation to a classified road (within the meaning of that Act), for which a council is the roads authority, for the purposes of exercising its functions under this Act.	5 6 7 8
(2)	However, Sydney Metro must not do anything referred to in section 138 (1) of that Act in relation to any such road except with the consent of the Roads and Traffic Authority.	9 10 11
[8]	Part 7, Division 1, heading	12
	Omit “or ITSRR”. Insert instead “, Sydney Metro or ITSRR”.	13
[9]	Section 56 Application of Division	14
	Omit “or the ITSRR”. Insert instead “, the ITSRR or Sydney Metro”.	15
[10]	Part 8, Division 2A	16
	Insert after Division 2:	17
	Division 2A Financial provisions relating to Sydney Metro	18
76A	Sydney Metro Fund	19
	There is to be established in the Special Deposits Account a Sydney Metro Fund.	20 21
76B	Payments into Sydney Metro Fund	22
	There is to be paid into the Sydney Metro Fund:	23
(a)	all money received by or on account of Sydney Metro, and	24
(b)	all money advanced by the Treasurer for the Fund, and	25
(c)	all money advanced to Sydney Metro by the Treasurer or appropriated by Parliament for the purposes of Sydney Metro, and	26 27 28
(d)	all other money required by or under this or any other Act to be paid into the Fund.	29 30

76C	Payments from Sydney Metro Fund	1
	There is to paid from the Sydney Metro Fund:	2
	(a) all payments made on account of Sydney Metro or otherwise required to meet expenditure incurred in relation to the functions of Sydney Metro, and	3 4 5
	(b) all other payments required by or under this or any other Act to be paid from the Fund.	6 7
[11]	Section 89 Definitions	8
	Insert “, Sydney Metro” after “Transport Infrastructure Development Corporation” in the definition of <i>rail authority</i> .	9 10
[12]	Section 89, definition of “railway system”	11
	Omit the definition.	12
[13]	Section 89, definition of “State rail operator”	13
	Insert “, Sydney Metro” after “RailCorp”.	14
[14]	Section 94 Transfers of assets, rights and liabilities	15
	Insert “or a local council” after “the Crown” where secondly occurring in section 94 (1).	16 17
[15]	Section 99A Closure and disposal of railway lines	18
	Insert after section 99A (3):	19
	(4) This section does not apply to a metro railway system.	20
[16]	Section 107 Definition of “transport authority”	21
	Insert at the end of section 107 (1) (d):	22
	, or	23
	(e) Sydney Metro.	24
[17]	Section 112 Personal liability of certain persons	25
	Insert “or omitted to be done” after “done” wherever occurring in section 112 (1).	26 27
[18]	Section 112 (2), definition of “member of a transport authority”	28
	Omit “and the Roads and Traffic Authority”.	29
	Insert instead “, the Roads and Traffic Authority and Sydney Metro”.	30

[19] Section 112 (2), definition of “transport authority”	1
Insert before paragraph (a):	2
(aa) the Sydney Metro Board, and	3
[20] Section 116 Liability of vehicle owner for parking offences on Authority’s land	4
Insert “, Sydney Metro” after “Sydney Ferries” in the definition of <i>parking offence</i> in section 116 (7).	5
[21] Schedule 2B	6
Insert after Schedule 2A:	7
 Schedule 2B Constitution and procedure and CEO of Sydney Metro	8
 (Sections 55F (3) and 55H (2))	9
 Part 1 Provisions relating to constitution and procedure of Sydney Metro Board	10
 1 Definitions	11
In this Schedule:	12
<i>appointed member</i> means a member of the Board other than the Chief Executive Officer of Sydney Metro.	13
<i>Board</i> means the Sydney Metro Board.	14
<i>Chairperson</i> means the Chairperson of the Board.	15
<i>member</i> means the Chief Executive Officer of Sydney Metro or an appointed member.	16
 2 Chairperson of Board	17
(1) The Minister is to appoint one of the appointed members of the Board as Chairperson of the Board.	18
(2) The appointment may be in and by the member’s instrument of appointment as a member or in and by another instrument executed by the Minister.	19
(3) The Minister may remove a member from the office of Chairperson at any time.	20

(4)	A person who is a member and Chairperson vacates office as Chairperson if the person:	1
(a)	is removed from that office by the Minister, or	2
(b)	resigns that office by instrument in writing addressed to the Minister, or	3
(c)	ceases to be a member.	4
3	Terms of office of members	5
	Subject to this Part and the regulations, an appointed member holds office for such period (not exceeding 5 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.	6
4	Remuneration	7
	An appointed member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.	8
5	Deputies	9
(1)	A member may, from time to time, appoint a person to be the deputy of the member, and may revoke any such appointment.	10
(2)	In the absence of a member, the member's deputy may, if available, act in the place of the member.	11
(3)	While acting in the place of a member, a person has all the functions of the member and is taken to be a member.	12
(4)	For the purposes of this clause, a vacancy in the office of a member is taken to be an absence of the member.	13
(5)	This clause does not operate to confer on the deputy of a member who is the Chairperson the member's functions as Chairperson.	14
(6)	An appointed member may appoint a deputy only with the approval of the Chairperson.	15
6	Vacancy in office of appointed member	16
(1)	The office of an appointed member becomes vacant if the member:	17
(a)	dies, or	18
(b)	completes a term of office and is not re-appointed, or	19
(c)	resigns the office by instrument in writing addressed to the Minister, or	20

(d)	is removed from office by the Minister under this clause, or	1 2
(e)	is absent from 3 consecutive meetings of the Board of which reasonable notice has been given to the member personally or by post, except on leave granted by the Minister or unless the member is excused by the Minister for having been absent from those meetings, or	3 4 5 6 7
(f)	becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or	8 9 10 11
(g)	becomes a mentally incapacitated person, or	12
(h)	is convicted in New South Wales of an offence that is punishable by imprisonment for 6 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.	13 14 15 16 17
(2)	The Minister may remove an appointed member from office at any time.	18 19
7	Filling of vacancy in office of appointed member	20
	If the office of any appointed member becomes vacant, a person is, subject to this Act and the regulations, to be appointed to fill the vacancy.	21 22 23
8	Disclosure of pecuniary interests	24
(1)	If:	25
(a)	a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board, and	26 27 28
(b)	the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,	29 30 31
	the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.	32 33 34
(2)	A disclosure by a member at a meeting of the Board that the member:	35 36
(a)	is a member, or is in the employment, of a specified company or other body, or	37 38

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|----------|--|----------------------------|
| (b) | is a partner, or is in the employment, of a specified person,
or | 1
2 |
| (c) | has some other specified interest relating to a specified
company or other body or to a specified person,
is a sufficient disclosure of the nature of the interest in any matter
relating to that company or other body or to that person which
may arise after the date of the disclosure and which is required to
be disclosed under subclause (1). | 3
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| (3) | Particulars of any disclosure made under this clause must be
recorded by the Board in a book kept for the purpose and that
book must be open at all reasonable hours to inspection by any
person on payment of the fee determined by the Board. | 9
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| (4) | After a member has disclosed the nature of an interest in any
matter, the member must not, unless the Minister or the Board
otherwise determines: | 13
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| (a) | be present during any deliberation of the Board with
respect to the matter, or | 16
17 |
| (b) | take part in any decision of the Board with respect to the
matter. | 18
19 |
| (5) | For the purposes of the making of a determination by the Board
under subclause (4), a member who has a direct or indirect
pecuniary interest in a matter to which the disclosure relates must
not: | 20
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| (a) | be present during any deliberation of the Board for the
purpose of making the determination, or | 24
25 |
| (b) | take part in the making by the Board of the determination. | 26 |
| (6) | A contravention of this clause does not invalidate any decision of
the Board. | 27
28 |
| (7) | This clause applies to a member of a committee of the Board and
the committee in the same way as it applies to a member of the
Board and the Board. | 29
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| 9 | Transaction of business outside meetings or by telephone | 32 |
| (1) | The Board may, if it thinks fit, transact any of its business by the
circulation of papers among all the members of the Board for the
time being, and a resolution in writing approved in writing by a
majority of those members is taken to be a decision of the Board. | 33
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| (2) | The Board may, if it thinks fit, transact any of its business at a
meeting at which members (or some members) participate by
telephone, closed-circuit television or other means, but only if | 37
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39 |

	any member who speaks on a matter before the meeting can be heard by the other members.	1 2
(3)	For the purposes of:	3
	(a) the approval of a resolution under subclause (1), or	4
	(b) a meeting held in accordance with subclause (2),	5
	the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Board.	6 7
(4)	A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.	8 9 10
(5)	Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.	11 12 13
10	Effect of certain other Acts	14
(1)	Chapter 2 of the <i>Public Sector Employment and Management Act 2002</i> does not apply to or in respect of the appointment of an appointed member.	15 16 17
(2)	If by or under any Act provision is made:	18
	(a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or	19 20 21
	(b) prohibiting the person from engaging in employment outside the duties of that office,	22 23
	the provision does not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as a member.	24 25 26 27
11	General procedure	28
	The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Board.	29 30 31
12	Quorum	32
	The quorum for a meeting of the Board is a majority of its members for the time being, including the Chairperson or the Chairperson's deputy.	33 34 35

13	Presiding member	1
(1)	The Chairperson (or, in the absence of the Chairperson, a person elected by the members of the Board who are present at a meeting of the Board) is to preside at a meeting of the Board.	2 3 4
(2)	The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.	5 6
14	Voting	7
	A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.	8 9 10
15	First meeting	11
	The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.	12 13
Part 2	Provisions relating to Chief Executive Officer of Sydney Metro	14 15
16	Employment of Chief Executive Officer	16
	The employment of the Chief Executive Officer of Sydney Metro is subject to Part 3.1 of the <i>Public Sector Employment and Management Act 2002</i> , but is not subject to Chapter 2 of that Act.	17 18 19
17	Acting Chief Executive Officer	20
(1)	The Minister may, from time to time, appoint a person to act in the office of Chief Executive Officer of Sydney Metro during the illness or absence of the Chief Executive Officer, and the person, while so acting, has all the functions of the Chief Executive Officer and is taken to be the Chief Executive Officer.	21 22 23 24 25
(2)	The Minister may, at any time, remove any person from an office to which the person was appointed under this clause.	26 27
(3)	A person while acting in the office of Chief Executive Officer is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.	28 29 30 31
(4)	For the purposes of this clause, a vacancy in the office of Chief Executive Officer is to be regarded as an absence from office of the Chief Executive Officer.	32 33 34

[22] Schedule 4 Transfer of assets, rights and liabilities	1
Insert “and whether personal or assignable” after “contingent” in the definition of <i>assets</i> in clause 1.	2 3
[23] Schedule 4, clause 1, definitions of “liabilities” and “rights”	4
Insert “and whether personal or assignable” after “contingent” wherever occurring.	5 6
[24] Schedule 4, clause 3 (d1)	7
Insert after clause 3 (d):	8
(d1) the transferee has all the entitlements and obligations of the transferor in relation to those assets, rights and liabilities that the transferor would have had but for the order, whether or not those entitlements and obligations were actual or potential at the time the order took effect,	9 10 11 12 13
[25] Schedule 5 Extended leave for certain staff	14
Insert “, Sydney Metro” after “Independent Transport Safety and Reliability Regulator” in the definition of <i>Authority</i> in clause 2.	15 16
[26] Schedule 6A Powers relating to rail infrastructure facilities and land	17
Insert after paragraph (a) of the definition of <i>owner</i> of railway land, rail infrastructure facilities or a railway building in clause 1:	18 19
(a1) in the case of any land, rail infrastructure facilities or any railway building that is managed or controlled by Sydney Metro for the purposes of exercising its functions under this Act, Sydney Metro, or	20 21 22 23
[27] Schedule 6A, clause 1, definition of “rail authority”	24
Omit “and Transport Infrastructure Development Corporation” from paragraph (a).	25 26
Insert instead “, Transport Infrastructure Development Corporation and Sydney Metro”.	27 28
[28] Schedule 6A, clause 2CA	29
Insert after clause 2C:	30
2CA Sydney Metro’s rail infrastructure facilities	31
Sydney Metro is the owner of all rail infrastructure facilities installed in or on land, in or on rivers and other waterways and in or on the beds of rivers and waterways by Sydney Metro and of all rail infrastructure facilities vested in or transferred to Sydney	32 33 34 35

	Metro (whether or not the place on which the facilities are situated is owned by Sydney Metro).	1 2
[29]	Schedule 6A, clause 3 (1C)	3
	Insert after clause 3 (1B):	4
	(1C) Without limiting this clause, the power of entry conferred by it for the purposes referred to in subclause (1) includes the power to enter land for the purpose of carrying out geotechnical surveys with respect to railway land.	5 6 7 8
[30]	Schedule 6B Special provisions for underground rail facilities	9
	Insert “, Sydney Metro” after “ARTC” in the definition of <i>rail authority</i> in clause 1 (1).	10 11
[31]	Schedule 7 Savings, transitional and other provisions	12
	Insert at the end of clause 2 (1):	13
	<i>Transport Administration Amendment (Metro Rail) Act 2008</i>	14
[32]	Schedule 7	15
	Insert at the end of the Schedule with appropriate Part and clause numbering:	16
Part	Provisions consequent on enactment of Transport Administration Amendment (Metro Rail) Act 2008	17 18 19
	Interpretation	20
	In this Part, <i>amending Act</i> means the <i>Transport Administration Amendment (Metro Rail) Act 2008</i> .	21 22
	First corporate plan	23
	Sydney Metro is to prepare its first corporate plan, in accordance with section 55L, as inserted by the amending Act, within the period approved by the Minister for the purposes of this clause.	24 25 26
	Transfers of assets and liabilities—validation	27
	(1) Schedule 4, as amended by the amending Act, extends to any transfer of assets, rights or liabilities, consequent on an order to which that Schedule applies, that was made at any time before the commencement of those amendments.	28 29 30 31

Transport Administration Amendment (Metro Rail) Bill 2008

Schedule 1 Amendment of Transport Administration Act 1988

- (2) For that purpose: 1
 - (a) the amendments are taken to have been in force when the 2
relevant transfers occurred, and 3
 - (b) any such transfer is taken to have been validly made if it 4
could have been made after that commencement. 5
- (3) This clause does not apply to any transfer to the extent that it is 6
affected by any proceedings of a court that were finally 7
determined before that commencement. 8
- (4) For the purposes of this clause, proceedings are not finally 9
determined if: 10
 - (a) any period for bringing an appeal as of right in respect of 11
the proceedings has not expired (ignoring any period that 12
may be available by way of extension of time to appeal), or 13
 - (b) any appeal in respect of the proceedings is pending 14
(whether or not it is an appeal brought as of right). 15

Schedule 2	Amendment of other Acts	1
	(Section 4)	2
2.1	Electricity Supply Act 1995 No 94	3
[1]	Section 106 Regulations	4
	Insert “, Sydney Metro” after “Transport Infrastructure Development Corporation” in section 106 (2A).	5 6
[2]	Dictionary	7
	Insert “or Sydney Metro” after “Rail Infrastructure Corporation” in the definition of <i>rail network electricity system</i> .	8 9
2.2	Local Government Act 1993 No 30	10
[1]	Section 555 What land is exempt from all rates?	11
	Insert “, Sydney Metro” after “Rail Corporation New South Wales” in section 555 (1) (g1).	12 13
[2]	Section 600 Rebates in respect of certain land vested in public bodies	14
	Insert “, Sydney Metro” after “Rail Infrastructure Corporation” in the definition of <i>public body</i> in section 600 (9).	15 16
[3]	Section 742 Dispute resolution	17
	Insert at the end of section 742 (7):	18
	• Sydney Metro	19
2.3	Pipelines Act 1967 No 90	20
	Section 3 Definitions	21
	Insert “, Sydney Metro” after “Transport Infrastructure Development Corporation” in paragraph (a) of the definition of <i>public authority</i> in section 3 (1).	22 23 24
2.4	Public Sector Employment and Management Act 2002 No 43	25
[1]	Schedule 1 Divisions of the Government Service	26
	Insert in appropriate order in Columns 1 and 2, respectively, in Part 2:	27
	Sydney Metro Division	
	Chief Executive Officer of Sydney Metro	

[2] Schedule 2 Executive positions (other than non-statutory SES positions)	1
Insert in appropriate order in Part 2:	2
Chief Executive Officer of Sydney Metro	3
2.5 Roads Act 1993 No 33	4
Section 94 Roads authority may carry out drainage work across land adjoining public road etc	5
Insert “, Sydney Metro” after “Transport Infrastructure Development Corporation” in section 94 (2).	6
	7
	8