

Passed by both Houses



New South Wales

Transport Administration Amendment (Transport Entities) Bill 2017

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2017



New South Wales

Transport Administration Amendment (Transport Entities) Bill 2017

Act No , 2017

An Act to amend the *Transport Administration Act 1988* to convert Rail Corporation New South Wales into a State owned corporation; to make further provision for the functions, management and status of NSW Trains and Sydney Trains; to establish a Residual Transport Corporation; and for related purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Transport Administration Amendment (Transport Entities) Act 2017*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of legislation relating to Sydney Trains, NSW Trains and Residual Transport Corporation

1.1 Transport Administration Act 1988 No 109

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

NSW Trains means NSW Trains constituted under this Act.

Residual Transport Corporation or *RTC* means Residual Transport Corporation of New South Wales constituted under this Act.

SOC conversion day means the date of commencement of Schedule 2.1 [6] to the *Transport Administration Amendment (Transport Entities) Act 2017*.

Sydney Trains means Sydney Trains constituted under this Act.

transport assets means assets used for or in connection with or to facilitate the movement of persons and freight by road, rail, sea, air or other mode of transport, and includes transport infrastructure.

[2] Section 3 (1), definition of “public transport agency”

Insert “, NSW Trains, Sydney Trains” after “Sydney Ferries”.

[3] Section 3 (1), definition of “rail infrastructure owner”

Insert after paragraph (a):

(a1) in the case of any rail infrastructure facilities that are managed or controlled by NSW Trains for the purposes of exercising its functions under this Act, NSW Trains, or

(a2) in the case of any rail infrastructure facilities that are managed or controlled by Sydney Trains for the purposes of exercising its functions under this Act, Sydney Trains, or

[4] Section 3B Ministerial responsibility and delegation

Insert after section 3B (1) (d):

- (e) NSW Trains,
- (f) Sydney Trains,
- (g) RTC.

[5] Section 3G Directions by TfNSW to public transport agencies

Insert after section 3G (1) (d):

- (e) NSW Trains,
- (f) Sydney Trains,
- (f1) RTC,

[6] Section 3I Delegation of TfNSW’s functions

Insert after section 3I (3) (a):

- (a1) RTC or a member of staff of RTC, or

[7] Section 3J Acceptance of delegated functions by TfNSW

Insert “or RTC” after “public transport agency” in section 3J (1).

[8] Section 3J (3)

Insert after section 3J (2):

- (3) RTC is authorised to delegate any function of RTC to TfNSW.

[9] Section 5 Objectives of RailCorp

Omit section 5 (1) (a). Insert instead:

- (a) to ensure that the transport services operated by it are delivered in a safe, reliable, efficient, effective and financially responsible manner, and

[10] Section 5 (2) (a)

Insert “on that part of the NSW rail network vested in or owned by RailCorp” after “railway passenger services”.

[11] Section 6 Transport services

Omit section 6 (1)–(3). Insert instead:

- (1) RailCorp may operate transport services.

[12] Section 6A

Insert after section 6:

6A Transport asset functions

RailCorp may:

- (a) hold, manage, operate and maintain transport assets vested in or owned by it, or to be vested in or owned by it, and
(b) establish, finance, acquire, construct and develop transport assets to be vested in or owned by it.

[13] Section 10 Other functions of RailCorp

Omit “rail” from section 10 (2) (a). Insert instead “transport”.

[14] Parts 3B and 3C

Insert after Part 3A:

Part 3B Sydney Trains

Division 1 Constitution of Sydney Trains

36 Constitution of Sydney Trains

- (1) There is constituted by this Act a corporation with the corporate name of Sydney Trains.
- (2) Sydney Trains:
- (a) is a NSW Government agency, and
(b) is taken to be the same legal entity as, and a continuation of, Sydney Trains constituted and continued under the regulations under this Act, and

- (c) is not a subsidiary of RailCorp.

Division 2 Objectives of Sydney Trains

36A Objectives of Sydney Trains

- (1) The principal objective of Sydney Trains is to deliver safe and reliable railway passenger services in an efficient, effective and financially responsible manner.
- (2) The other objectives of Sydney Trains are as follows:
 - (a) to be a successful business and, to that end:
 - (i) to operate at least as efficiently as any comparable business, and
 - (ii) to maximise the net worth of the State's investment in Sydney Trains,
 - (b) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates,
 - (c) where its activities affect the environment, to conduct its operations in compliance with the principles of ecologically sustainable development contained in section 6 (2) of the *Protection of the Environment Administration Act 1991*,
 - (d) to exhibit a sense of responsibility towards regional development and decentralisation in the way in which it operates.
- (3) The other objectives of Sydney Trains are of equal importance, but are not as important as the principal objective of the corporation.

Division 3 Functions of Sydney Trains

36B Sydney railway passenger services

- (1) Sydney Trains is to operate railway passenger services.
- (2) Sydney Trains is to continue to operate the railway passenger services which were provided by it immediately before the commencement of this section.
- (3) Subsection (2) does not limit the power of Sydney Trains:
 - (a) to establish any new railway passenger service, or
 - (b) to alter or discontinue any of its railway passenger services.
- (4) The operation of a railway passenger service by Sydney Trains is subject to the requirements of the *Rail Safety National Law (NSW)*.
- (5) The Transport Secretary may give directions to Sydney Trains as to the railway passenger services to be operated by Sydney Trains, or that restrict the functions of Sydney Trains. Sydney Trains is to exercise its functions in accordance with any such directions.
- (6) The directions given by the Transport Secretary under clause 11 (3) of the *Transport Administration (General) Regulation 2013* and in force immediately before the commencement of this section continue to have effect, but may be amended or replaced by directions under this section.

Note. Under the directions given by the Transport Secretary under clause 11 (3) of the *Transport Administration (General) Regulation 2013* Sydney Trains operates rail passenger services predominantly in the part of the metropolitan rail area bounded by Waterfall, Macarthur, Richmond, Emu Plains and Berowra. NSW Trains operates rail passenger services that commence or terminate in regional New South Wales. However, for operational reasons, Sydney Trains provides rolling stock and crew for

some NSW Trains services and NSW Trains provides rolling stock and crew for some Sydney Trains services.

36C Other functions of Sydney Trains

- (1) Sydney Trains has the functions conferred or imposed on it by or under this or any other Act.
- (2) Sydney Trains may:
 - (a) conduct any business (whether or not related to its functions) that it considers will further its objectives, and
 - (b) operate other transport services, including bus services, whether or not in connection with its railway passenger services, and
 - (c) acquire and develop any land, and
 - (d) hold, manage, maintain and establish rail infrastructure facilities vested in or owned by it, or to be vested in or owned by it, and
 - (e) manage, maintain and establish rail infrastructure facilities vested in or owned by, or to be vested in or owned by, RTC or a public transport agency, and
 - (f) acquire or build, and maintain or dispose of, any engines, carriages, vehicles, plant, machinery or equipment, and
 - (g) 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, and
 - (h) make and enter into contracts or arrangements with any person for the operation, on such terms as may be agreed on, of any of Sydney Trains' train or other transport services or of any of Sydney Trains' businesses, and
 - (i) provide goods, services or facilities to the rail industry, and
 - (j) appoint agents, and act as agents for other persons.

36D Sale, lease or other disposal of land

- (1) Sydney Trains may, with the approval of the Minister, sell, lease or otherwise dispose of any of its land.
- (2) Despite subsection (1), the approval of the Minister is not required:
 - (a) for any lease for a term not exceeding 5 years, or
 - (b) for a sale, lease or other disposal of land not exceeding such value, or in such circumstances, as the Minister may determine from time to time.

36E Acquisition of land by Sydney Trains

- (1) Sydney Trains may, for any purposes of Sydney Trains, acquire land (including an interest in land) by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
- (2) The other purposes for which land may be acquired under subsection (1) include the purposes of a future sale, lease or disposal, that is, to enable Sydney Trains to exercise its functions in relation to land under this Act.
- (3) For the purposes of the *Public Works and Procurement Act 1912*, any such acquisition of land is taken to be an authorised work and Sydney Trains is, in relation to that authorised work, taken to be the Constructing Authority.

- (4) Sydney Trains may not give a proposed acquisition notice under the *Land Acquisition (Just Terms Compensation) Act 1991* without the approval of TfNSW.
- (5) Any such acquisition is not void merely because it is expressed to be for the purposes of Sydney Trains or for the purposes of this Act.
- (6) Part 3 of the *Public Works and Procurement Act 1912* does not apply in respect of works constructed for the purposes of this section.

36F Effect of Division

This Division does not limit the functions of Sydney Trains apart from this Division, but is subject to the provisions of this Act and any other Act or law.

Division 4 Management of Sydney Trains

36G Chief Executive of Sydney Trains

The Transport Secretary may, with the approval of the Minister, appoint a Chief Executive of Sydney Trains.

Note. Schedule 2 contains ancillary provisions relating to the Chief Executive of Sydney Trains.

36H Chief Executive to manage Sydney Trains

- (1) The affairs of Sydney Trains are to be managed and controlled by the Chief Executive of Sydney Trains in accordance with any directions of TfNSW under section 3G.
- (2) Any act, matter or thing done in the name of, or on behalf of, Sydney Trains by the Chief Executive is taken to have been done by Sydney Trains.

36I Sydney Trains to supply information to Minister

Sydney Trains must:

- (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
- (b) keep the Minister informed of the general conduct of its activities and of any significant development in its activities.

36J Corporate plans

- (1) Sydney Trains must, at least 3 months before the beginning of each financial year of Sydney Trains, prepare and deliver to TfNSW a draft corporate plan for the financial year.
- (2) Sydney Trains must:
 - (a) consider any comments on the draft corporate plan that were made by TfNSW within 2 months after the draft plan was delivered to TfNSW, and
 - (b) deliver the completed corporate plan to TfNSW before the beginning of the financial year concerned.
- (3) Sydney Trains is to make a draft plan prepared after the commencement of this section 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.

- (4) Sydney Trains is to make the completed corporate plan available for public inspection. However, Sydney Trains 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 *Government Information (Public Access) Act 2009*.
- (5) Sydney Trains must, as far as practicable, exercise its functions in accordance with the relevant corporate plan.
- (6) A corporate plan is to specify:
 - (a) the separate activities of Sydney Trains and, in particular, the separate commercial and non-commercial activities, and
 - (b) the objectives of each such separate activity for the financial year concerned and for future financial years, and
 - (c) the strategies, policies and budgets for achieving those objectives in relation to each such separate activity, and
 - (d) the targets and criteria for assessing Sydney Trains' performance.
- (7) This section is subject to any requirement made by or under this Act (including the requirements of any direction by the Minister or TfNSW under this Act).

36K Delegation of functions of Sydney Trains

- (1) Sydney Trains may delegate to an authorised person any of its functions, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by Sydney Trains if the delegate is authorised in writing to do so by Sydney Trains.
- (3) In this section, *authorised person* means:
 - (a) an officer of Sydney Trains, or
 - (b) a person of a class prescribed by the regulations or approved by TfNSW.

Part 3C NSW Trains

Division 1 Constitution of NSW Trains

37 Constitution of NSW Trains

- (1) There is constituted by this Act a corporation with the corporate name of NSW Trains.
- (2) NSW Trains:
 - (a) is a NSW Government agency, and
 - (b) is taken to be the same legal entity as, and a continuation of, NSW Trains constituted and continued under the regulations under this Act, and
 - (c) is not a subsidiary of RailCorp.

Division 2 Objectives of NSW Trains

37A Objectives of NSW Trains

- (1) The principal objective of NSW Trains is to deliver safe and reliable NSW railway passenger services (including services outside NSW originating or terminating inside NSW) in an efficient, effective and financially responsible manner.
- (2) The other objectives of NSW Trains are as follows:
 - (a) to be a successful business and, to that end:
 - (i) to operate at least as efficiently as any comparable business, and
 - (ii) to maximise the net worth of the State's investment in NSW Trains,
 - (b) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates,
 - (c) where its activities affect the environment, to conduct its operations in compliance with the principles of ecologically sustainable development contained in section 6 (2) of the *Protection of the Environment Administration Act 1991*,
 - (d) to exhibit a sense of responsibility towards regional development and decentralisation in the way in which it operates.
- (3) The other objectives of NSW Trains are of equal importance, but are not as important as the principal objective of the corporation.

Division 3 Functions of NSW Trains

37B NSW railway passenger services

- (1) NSW Trains is to operate railway passenger services in NSW and may operate railway passenger services outside NSW that originate or terminate inside NSW.
- (2) NSW Trains is to continue to operate the railway passenger services which were provided by it immediately before the commencement of this section.
- (3) Subsection (2) does not limit the power of NSW Trains:
 - (a) to establish any new railway passenger service, or
 - (b) to alter or discontinue any of its railway passenger services.
- (4) The operation of a railway passenger service by NSW Trains is subject to the requirements of the *Rail Safety National Law (NSW)*.
- (5) The Transport Secretary may give directions to NSW Trains as to the railway passenger services to be operated by NSW Trains, or that restrict the functions of NSW Trains. NSW Trains is to exercise its functions in accordance with any such directions.
- (6) The directions given by the Transport Secretary under clause 33 (3) of the *Transport Administration (General) Regulation 2013* and in force immediately before the commencement of this section continue to have effect, but may be amended or replaced by directions under this section.

Note. Under the directions given by the Transport Secretary under clause 33 (3) of the *Transport Administration (General) Regulation 2013* NSW Trains operates rail passenger services that commence or terminate in regional New South Wales. Sydney Trains operates rail passenger services predominantly in the part of the metropolitan rail area bounded by Waterfall, Macarthur, Richmond, Emu Plains and Berowra.

However, for operational reasons, NSW Trains provides rolling stock and crew for some Sydney Trains services and Sydney Trains provides rolling stock and crew for some NSW Trains services.

37C Other functions of NSW Trains

- (1) NSW Trains has the functions conferred or imposed on it by or under this or any other Act.
- (2) NSW Trains may:
 - (a) conduct any business (whether or not related to its functions) that it considers will further its objectives, and
 - (b) operate other transport services, including bus services, whether or not in connection with its railway passenger services, and
 - (c) acquire and develop any land, and
 - (d) hold, manage, maintain and establish rail infrastructure facilities vested in or owned by it, or to be vested in or owned by it, and
 - (e) manage, maintain and establish rail infrastructure facilities vested in or owned by, or to be vested in or owned by, RTC or a public transport agency, and
 - (f) acquire or build, and maintain or dispose of, any engines, carriages, vehicles, plant, machinery or equipment, and
 - (g) 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, and
 - (h) make and enter into contracts or arrangements with any person for the operation, on such terms as may be agreed on, of any of NSW Trains' train or other transport services or of any of NSW Trains' businesses, and
 - (i) provide goods, services or facilities to the rail industry, and
 - (j) appoint agents, and act as agents for other persons.

37D Sale, lease or other disposal of land

- (1) NSW Trains may, with the approval of the Minister, sell, lease or otherwise dispose of any of its land.
- (2) Despite subsection (1), the approval of the Minister is not required:
 - (a) for any lease for a term not exceeding 5 years, or
 - (b) for a sale, lease or other disposal of land not exceeding such value, or in such circumstances, as the Minister may determine from time to time.

37E Acquisition of land by NSW Trains

- (1) NSW Trains may, for any purposes of NSW Trains, acquire land (including an interest in land) by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
- (2) The other purposes for which land may be acquired under subsection (1) include the purposes of a future sale, lease or disposal, that is, to enable NSW Trains to exercise its functions in relation to land under this Act.
- (3) For the purposes of the *Public Works and Procurement Act 1912*, any such acquisition of land is taken to be an authorised work and NSW Trains is, in relation to that authorised work, taken to be the Constructing Authority.

- (4) NSW Trains may not give a proposed acquisition notice under the *Land Acquisition (Just Terms Compensation) Act 1991* without the approval of TfNSW.
- (5) Any such acquisition is not void merely because it is expressed to be for the purposes of NSW Trains or for the purposes of this Act.
- (6) Part 3 of the *Public Works and Procurement Act 1912* does not apply in respect of works constructed for the purposes of this section.

37F Effect of Division

This Division does not limit the functions of NSW Trains apart from this Division, but is subject to the provisions of this Act and any other Act or law.

Division 4 Management of NSW Trains

37G Chief Executive of NSW Trains

The Transport Secretary may, with the approval of the Minister, appoint a Chief Executive of NSW Trains.

Note. Schedule 2 contains ancillary provisions relating to the Chief Executive of NSW Trains.

37H Chief Executive to manage NSW Trains

- (1) The affairs of NSW Trains are to be managed and controlled by the Chief Executive of NSW Trains in accordance with any directions of TfNSW under section 3G.
- (2) Any act, matter or thing done in the name of, or on behalf of, NSW Trains by the Chief Executive is taken to have been done by NSW Trains.

37I NSW Trains to supply information to Minister

NSW Trains must:

- (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
- (b) keep the Minister informed of the general conduct of its activities and of any significant development in its activities.

37J Corporate plans

- (1) NSW Trains must, at least 3 months before the beginning of each financial year of NSW Trains, prepare and deliver to TfNSW a draft corporate plan for the financial year.
- (2) NSW Trains must:
 - (a) consider any comments on the draft corporate plan that were made by TfNSW within 2 months after the draft plan was delivered to TfNSW, and
 - (b) deliver the completed corporate plan to TfNSW before the beginning of the financial year concerned.
- (3) NSW Trains is to make a draft plan prepared after the commencement of this section 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.

- (4) NSW Trains is to make the completed corporate plan available for public inspection. However, NSW Trains 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 *Government Information (Public Access) Act 2009*.
- (5) NSW Trains must, as far as practicable, exercise its functions in accordance with the relevant corporate plan.
- (6) A corporate plan is to specify:
 - (a) the separate activities of NSW Trains and, in particular, the separate commercial and non-commercial activities, and
 - (b) the objectives of each such separate activity for the financial year concerned and for future financial years, and
 - (c) the strategies, policies and budgets for achieving those objectives in relation to each such separate activity, and
 - (d) the targets and criteria for assessing NSW Trains' performance.
- (7) This section is subject to any requirement made by or under this Act (including the requirements of any direction by the Minister or TfNSW under this Act).

37K Delegation of functions of NSW Trains

- (1) NSW Trains may delegate to an authorised person any of its functions, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by NSW Trains if the delegate is authorised in writing to do so by NSW Trains.
- (3) In this section, *authorised person* means:
 - (a) an officer of NSW Trains, or
 - (b) a person of a class prescribed by the regulations or approved by TfNSW.

[15] Section 42A Definitions

Insert after paragraph (b) of the definition of *transport authority*:

- (b1) NSW Trains, or
- (b2) Sydney Trains, or

[16] Section 55A Definition of "transport authority"

Insert after section 55A (e):

- (f) NSW Trains,
- (g) Sydney Trains,
- (h) RTC.

[17] Part 7, Divisions 3A and 3B

Insert after section 64:

Division 3A Staff of Sydney Trains

64A Employment of staff

Sydney Trains may employ such staff as it requires to exercise its functions.

64B Salary, conditions etc of staff

Sydney Trains may fix the salary, wages and conditions of employment of its staff in so far as they are not fixed by or under any other Act or law.

64C Regulations relating to Sydney Trains staff

- (1) The regulations may make provision for or with respect to the employment of the staff of Sydney Trains, including the conditions of employment and the discipline of any such staff.
- (2) Any such regulations relating to the conditions of employment or the discipline of staff:
 - (a) have effect subject to any relevant award made by a competent industrial tribunal and to any industrial agreement to which Sydney Trains is a party, and
 - (b) have effect despite any determination of Sydney Trains under section 64B.
- (3) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to the employment of staff under this Division.

Division 3B Staff of NSW Trains

64D Employment of staff

NSW Trains may employ such staff as it requires to exercise its functions.

64E Salary, conditions etc of staff

NSW Trains may fix the salary, wages and conditions of employment of its staff in so far as they are not fixed by or under any other Act or law.

64F Regulations relating to NSW Trains staff

- (1) The regulations may make provision for or with respect to the employment of the staff of NSW Trains, including the conditions of employment and the discipline of any such staff.
- (2) Any such regulations relating to the conditions of employment or the discipline of staff:
 - (a) have effect subject to any relevant award made by a competent industrial tribunal and to any industrial agreement to which NSW Trains is a party, and
 - (b) have effect despite any determination of NSW Trains under section 64E.
- (3) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to the employment of staff under this Division.

[18] Section 65 Definitions

Insert after paragraph (e) of the definition of *transport authority*:

- (f) NSW Trains,
- (g) Sydney Trains,

[19] Section 68C Employment in the Transport Service (as substituted by the Government Sector Employment Legislation Amendment Act 2016)

Omit section 68C (2). Insert instead:

- (2) The Government of New South Wales may also employ persons in the Transport Service to enable RailCorp, Sydney Trains, NSW Trains or RTC (or a public subsidiary corporation of RailCorp, Sydney Trains, NSW Trains or RTC) to exercise their functions.

Note. RailCorp, NSW Trains and Sydney Trains also each have the power to employ staff separately (see sections 58A, 64A and 64D for RailCorp, Sydney Trains and NSW Trains, respectively). Staff employed by RailCorp, Sydney Trains and NSW Trains are not employed in the Transport Service.

[20] Section 68Q Miscellaneous provisions relating to the Transport Service (as inserted by the Government Sector Employment Legislation Amendment Act 2016)

Omit “RMS or RailCorp” wherever occurring in section 68Q (5) (c) and (6).

Insert instead “RMS, RailCorp, NSW Trains, Sydney Trains or RTC”.

[21] Section 68Q (5) and (6) (as inserted by the Government Sector Employment Legislation Amendment Act 2016)

Omit “RMS, RailCorp” wherever occurring.

Insert instead “RMS, RailCorp, NSW Trains, Sydney Trains, RTC”.

[22] Section 68Q (10) (as inserted by the Government Sector Employment Legislation Amendment Act 2016)

Insert at the end of section 68Q (10) (d):

, or

- (e) NSW Trains (or a public subsidiary corporation of NSW Trains) is to be read as a reference to a person employed in the Transport Service to enable NSW Trains (or the corporation) to exercise its functions, or
- (f) Sydney Trains (or a public subsidiary corporation of Sydney Trains) is to be read as a reference to a person employed in the Transport Service to enable Sydney Trains (or the corporation) to exercise its functions, or
- (g) RTC (or a public subsidiary corporation of RTC) is to be read as a reference to a person employed in the Transport Service to enable RTC (or the corporation) to exercise its functions.

[23] Part 8, Divisions 3AA and 3AB

Insert after section 80F:

Division 3AA Financial provisions relating to Sydney Trains

80FA Sydney Trains Fund

There is established in the Special Deposits Account a fund called the Sydney Trains Fund.

80FB Payments into Sydney Trains Fund

There is to be paid into the Sydney Trains Fund:

- (a) all money received by or on account of Sydney Trains, and
- (b) all money advanced to Sydney Trains by the Treasurer, and
- (c) all money:
 - (i) appropriated by Parliament for the purposes of TfNSW and allocated to Sydney Trains by TfNSW, or
 - (ii) otherwise appropriated by Parliament for the purposes of Sydney Trains, and
- (d) all fines and penalties recovered for offences under the regulations under the Act, or under the *Passenger Transport Act 1990* or the *Passenger Transport Act 2014*, in connection with services operated by Sydney Trains (but only if proceedings or penalty notices for the offences were instituted or issued by Sydney Trains or an employee of Sydney Trains), and
- (e) the proceeds of the investment of money in the Fund, and
- (f) all other money required by or under this or any other Act to be paid into the Fund.

80FC Payments from Sydney Trains Fund

There is to be paid from the Sydney Trains Fund:

- (a) all payments made on account of Sydney Trains or otherwise required to meet expenditure incurred in relation to the functions of Sydney Trains, and
- (b) all other payments required by or under this or any other Act to be paid from the Fund.

Division 3AB Financial provisions relating to NSW Trains

80FD NSW Trains Fund

There is established in the Special Deposits Account a fund called the NSW Trains Fund.

80FE Payments into NSW Trains Fund

There is to be paid into the NSW Trains Fund:

- (a) all money received by or on account of NSW Trains, and
- (b) all money advanced to NSW Trains by the Treasurer, and
- (c) all money:
 - (i) appropriated by Parliament for the purposes of TfNSW and allocated to NSW Trains by TfNSW, or
 - (ii) otherwise appropriated by Parliament for the purposes of NSW Trains, and
- (d) the proceeds of the investment of money in the Fund, and
- (e) all other money required by or under this or any other Act to be paid into the Fund.

80FF Payments from NSW Trains Fund

There is to be paid from the NSW Trains Fund:

- (a) all payments made on account of NSW Trains or otherwise required to meet expenditure incurred in relation to the functions of NSW Trains, and
- (b) all other payments required by or under this or any other Act to be paid from the Fund.

[24] Section 81A Definition

Insert after paragraph (d) of the definition of *Authority*:

- (e) NSW Trains,
- (f) Sydney Trains,
- (g) RTC.

[25] Part 8, Division 5, heading

Insert “, Sydney Trains, NSW Trains” after “Sydney Ferries”.

[26] Section 84 Definitions

Insert “, Sydney Trains, NSW Trains” after “Sydney Ferries” in the definition of *Authority*.

[27] Section 85 Orders fixing charges

Insert after section 85 (2A):

- (2B) The charges to be demanded by Sydney Trains in respect of its railway passenger services or other transport services or for any other purpose are to be as from time to time determined by order made by Sydney Trains.
- (2C) The charges to be demanded by NSW Trains in respect of its railway passenger services or other transport services or for any other purpose are to be as from time to time determined by order made by NSW Trains.

[28] Section 85 (3)

Insert “, Sydney Trains and NSW Trains” after “RailCorp”.

[29] Section 88A Definitions

Insert “, NSW Trains, Sydney Trains” after “TfNSW” in the definition of *rail authority*.

[30] Section 88G Severance of rail infrastructure facilities from leased or licensed land

Insert “, NSW Trains, Sydney trains” after “RailCorp” wherever occurring in section 88G (1) and (2).

[31] Section 89 Definitions

Insert “, NSW Trains, Sydney Trains, RTC” after “TfNSW” in the definition of *rail authority*.

[32] Section 89, definition of “State rail operator”

Insert “, NSW Trains, Sydney Trains, TfNSW, RTC” after “RailCorp”.

[33] Section 93 Search of vehicles and luggage on certain railway premises

Insert “or the Transport Secretary” after “chief executive of the State rail operator” in the definition of *authorised officer* in section 93 (6).

[34] Section 94 Transfers of assets, rights and liabilities

Omit “rail authority” wherever occurring in section 94 (1).

Insert instead “transport authority”.

[35] Section 94 (6)

Omit the subsection. Insert instead:

- (6) In this section, *transport authority* means a rail authority and includes the SRA Residual Holding Corporation, the State Transit Authority, RMS, Sydney Ferries, the Transport Secretary and any other person or body prescribed by the regulations.

[36] Section 94 (8) and (9)

Insert after section 94 (7):

- (8) For the avoidance of doubt, an order under this section may transfer an asset, right or liability to more than one transferee.
- (9) The power to transfer an asset by means of an order under this section includes the power to transfer an interest in the asset. The transfer of an interest in an asset operates to create the interest in such terms as are specified in the order if the interest does not already exist as a separate interest.

[37] Section 107 Definition of “transport authority”

Insert after section 107 (1) (c1):

- (d) NSW Trains, or
(e) Sydney Trains.

[38] Section 109 Seals of Authorities

Insert after paragraph (d) of the definition of *Authority* in section 109 (2):

- (e) NSW Trains,
(f) Sydney Trains.

[39] Section 111 Referral of disputes

Insert in alphabetical order in section 111 (3):

transport authority includes RTC and any public or private subsidiary corporation of a transport authority (including RTC).

[40] Section 112 Personal liability of certain persons

Omit “and RMS,” from the definition of *member of a transport authority* in section 112 (2).

Insert instead “, Sydney Trains, NSW Trains and RMS, the RTC manager (within the meaning of clause 6 of Schedule 9),”.

[41] Section 112 (2), definition of “transport authority”

Insert after paragraph (a):

- (a1) RTC, and

[42] Section 113 Presumption of validity

Insert after section 113 (2):

- (3) In this section, *transport authority* includes RTC.

[43] Section 115 Recovery of charges etc by transport authority

Insert at the end of the section:

- (2) In this section, *transport authority* includes RTC.

[44] Section 116 Liability of vehicle owner for parking offences on Authority's land

Insert “, Sydney Trains, NSW Trains, RTC” after “Sydney Ferries” in the definition of *parking offence* in section 116 (7).

[45] Schedule 1 Functions of Transport for NSW

Insert “RTC and” after “shared services to” in clause 1 (i).

[46] Schedule 1, clause 1 (i)

Insert “RTC,” after “deployment of staff to”.

[47] Schedule 1, clause 4A (4)

Insert after paragraph (c) of the definition of *transport authority*:

- (c1) NSW Trains, or
(c2) Sydney Trains, or
(c3) RTC, or

[48] Schedule 1, clause 5 (7)

Insert after clause 5 (6):

- (7) In this clause, *public transport agency* includes RTC.

[49] Schedule 2 Provisions relating to Chief Executives

Insert after paragraph (d) of the definition of *Chief Executive* in clause 1:

- (e) Sydney Trains,
(f) NSW Trains.

[50] Schedule 4 Transfer of assets, rights and liabilities

Omit the definition of *rail authority* from clause 1.

Insert in alphabetical order:

transport authority has the same meaning as it has in section 94.

[51] Schedule 4, clause 2 (1) (a)

Omit the paragraph. Insert instead:

- (a) an order under section 94 transferring assets, rights or liabilities of a transport authority, or any subsidiary of a transport authority, to another transport authority or a subsidiary of a transport authority, a State owned corporation, the Crown or a person or body acting on behalf of the Crown,

[52] Schedule 4, clause 4

Omit the clause. Insert instead:

4 Operation of Schedule—contractual and other obligations

- (1) This clause applies to the following:
 - (a) the operation of this Schedule (including the making of any order under this Schedule and anything done or omitted to be done under or for the purposes of this Schedule),
 - (b) the transfer of assets, rights or liabilities under this Schedule,
 - (c) a disclosure of information by, on behalf of or with the consent of a public sector agency for the purposes of the operation of this Schedule or any such transfer (including any such disclosure made in anticipation of or in preparation for the making of an order or a transfer, whether or not the order is made or the transfer occurs).
- (2) None of the matters or things to which this clause applies are to be regarded as:
 - (a) a breach of contract or confidence or otherwise as a civil wrong, or
 - (b) a breach of any instrument (including, without limitation, any provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities) or as requiring any act to be done under an instrument, or
 - (c) giving rise to any right or remedy by a party to a contract or other instrument, or as causing or permitting the termination of, or exercise of rights under, any contract or other instrument, or
 - (d) an event of default under any contract or other instrument, or
 - (e) giving rise to a breach of or an offence against a provision of an Act that prohibits or restricts the disclosure of information, or
 - (f) releasing a surety or other obligee wholly or in part from an obligation.
- (3) In this clause:

instrument means an instrument (other than an instrument made under this Act) or any other document that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order, process or other instrument issued by a court or tribunal.

public sector agency means any of the following:

 - (a) the State (including the Crown in right of the State),
 - (b) a Minister,
 - (c) the Ministerial Holding Corporation constituted by the *State Owned Corporations Act 1989*,
 - (d) a State owned corporation,
 - (e) a public authority of the State,
 - (f) any other person acting on behalf of the State (or the Crown in right of the State),
 - (g) a wholly owned subsidiary of a public sector agency.

[53] Schedule 4, clauses 11–14

Insert after clause 10:

11 Transfer of licences and other authorisations

- (1) This clause applies to an authorisation granted to a transferor under an Act or statutory rule and in force immediately before a transfer by an order to which this Schedule applies.

Note. Acts under which authorisations are granted to public transport agencies include the *Environmental Planning and Assessment Act 1979*, *Home Building Act 1989*, *National Parks and Wildlife Act 1974*, *Place Management NSW Act 1998*, *Protection of the Environment Operations Act 1997* and *Sydney Water Act 1994*.

- (2) An authorisation is, to the extent that it relates to assets, rights or liabilities of a transferor, taken to be held by the transferee on the same terms and conditions as the transferor held the authorisation immediately before the transfer.
- (3) The regulations may exempt an authorisation from the operation of this clause.
- (4) This clause does not prevent an authorisation from being varied, cancelled or replaced.
- (5) In this clause:
authorisation includes a licence, permit, approval, consent or exemption.

12 Existing development applications and certain determinations and assessments

- (1) This clause applies to:
- (a) a development application made under the *Environmental Planning and Assessment Act 1979*, and
- (b) a determination or assessment under Part 5 of that Act, that relates to assets, rights or liabilities of a transferor that are transferred by an order to which this Schedule applies.
- (2) Subject to the regulations:
- (a) a development application referred to in subclause (1) (a) that has not been finally determined is taken to have been made by the transferee, and
- (b) a determination or assessment referred to in subclause (1) (b) made or carried out before the transfer by the transferor is taken to have been made or carried out by the transferee.

13 Severance of fixtures

- (1) The Minister may, by notice in writing, for the purposes of a transfer under an order to which this Schedule applies direct that specified assets to which the order applies are (if they are fixtures) severed from the land on, under or above which they are situated.
- (2) The effect of such a notice is that the assets concerned are deemed to be severed from the land concerned and may be dealt with as personal property separate from the land for the purposes of a transfer.
- (3) This clause applies to assets designated by the Minister, by notice in writing, to be assets to which this clause applies. Assets may be designated as assets to which this clause applies only if they are owned by a public transport agency.

- (4) The severance of an asset from land under this clause does not affect the right of the asset to be situated on, under or above that land and does not affect any right to drain water or sewage from the asset across and through the land or to use any means of drainage of water or sewage from the asset across and through the land.

14 Certain transfers do not constitute closures or disposals of railway lines

- (1) This clause applies to a transfer to RailCorp, RTC or TfNSW, or a subsidiary of any of those bodies, under an order to which this Schedule applies.
- (2) For the avoidance of doubt, a transfer under an order to which this clause applies does not constitute a closure of a railway line (within the meaning of section 99A).

[54] Schedule 5 Extended leave for certain staff

Insert after paragraph (d) of the definition of *Authority* in clause 2:

- (e) Sydney Trains,
(f) NSW Trains.

[55] Schedule 6A Powers relating to rail infrastructure facilities and land

Insert “, Sydney Trains, NSW Trains, RTC” after “RailCorp” in paragraph (a) of the definition of *rail authority* in clause 1.

[56] Schedule 6A, clause 1B (2)

Insert “, Sydney Trains, NSW Trains or RTC” after “RailCorp”.

[57] Schedule 6A, clause 2A

Omit the clause. Insert instead:

2A Rail infrastructure facilities of certain rail authorities

- (1) A rail authority 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 the rail authority and of all rail infrastructure facilities vested in or transferred to the rail authority (whether or not the place on which the facilities are situated is owned by the rail authority).
- (2) This clause is subject to any interest of any other rail authority in rail infrastructure facilities.
- (3) In this clause, *rail authority* does not include TfNSW.

[58] Schedule 6A, clause 13A (1)

Omit “RailCorp or TfNSW” and “their”.

Insert instead “A rail authority” and “its”, respectively.

[59] Schedule 6A, clause 13A (2)

Omit “RailCorp or TfNSW are”. Insert instead “a rail authority is”.

[60] Schedule 6A, clause 13A (4)

Insert “, Sydney Trains and NSW Trains” after “RailCorp”.

[61] Schedule 6A, clause 13A (5)

Omit “RailCorp or TfNSW”. Insert instead “the rail authority”.

[62] Schedule 6A, clause 13A (7)

Omit “RailCorp or TfNSW at their discretion maintain such fences in connection with the works as they think fit”.

Insert instead “a rail authority at its discretion maintains such fences in connection with the works as it thinks fit”.

[63] Schedule 6A, clause 13A (9)

Insert after clause 13A (8):

- (9) In this clause, *rail authority* means RailCorp, Sydney Trains, NSW Trains or TfNSW.

[64] Schedule 6B Special provisions for underground rail facilities

Insert “Sydney Trains,” after “RailCorp,” in the definition of *rail authority* in clause 1 (1).

[65] Schedule 7 Savings, transitional and other provisions

Insert after clause 2 (3):

- (4) Any such provision of the regulations has effect despite anything to the contrary in this Schedule. The regulations may make separate savings and transitional provisions or amend this Schedule to consolidate the savings and transitional provisions.

[66] Schedule 7

Insert at the end of the Schedule, with appropriate Part and clause numbering:

Part Provisions relating to Sydney Trains and NSW Trains

Saving of directions

For the avoidance of doubt, any direction given by TfNSW under section 3G to Sydney Trains or NSW Trains continues to have effect.

Deeming references to RailCorp to include Sydney Trains, NSW Trains and RTC

The regulations may provide that a reference to RailCorp in a specified provision of an Act, or an instrument made under an Act, includes a reference to any one or more of the following:

- (a) Sydney Trains,
- (b) NSW Trains,
- (c) RTC,
- (d) TfNSW.

Existing Chief Executives of Sydney Trains and NSW Trains

The persons who, immediately before the commencement of this clause, held office as Chief Executive of Sydney Trains and Chief Executive of NSW Trains are taken to have been appointed as Chief Executive of Sydney Trains and Chief Executive of NSW Trains, respectively:

- (a) for the balance of the term of office for which the person was so appointed before the commencement of this clause, and
- (b) on the same terms and conditions as the person was so appointed.

NSW rail access undertakings—references to rail infrastructure owners

Despite section 3, for the purposes of section 99C and Schedule 6AA, *rail infrastructure owner* in those provisions and in any relevant NSW rail access undertaking under those provisions does not include NSW Trains and Sydney Trains.

[67] Schedule 8 SRA Residual Holding Corporation

Omit clause 21 (1). Insert instead:

- (1) On the dissolution of the SRA Residual Holding Corporation, the regulations may provide that a reference in any other Act or instrument made under any other Act or in any other instrument of any kind to the SRA Residual Holding Corporation is to be taken to be a reference to another specified person or body.

[68] Schedule 9

Insert before Schedule 10:

Schedule 9 Residual Transport Corporation

Part 1 Constitution and functions of Residual Transport Corporation

1 Constitution of Residual Transport Corporation

- (1) There is constituted by this Act a corporation with the corporate name of Residual Transport Corporation of New South Wales.
- (2) RTC:
 - (a) has the functions conferred or imposed on it by or under this or any other Act, and
 - (b) is, for the purposes of any Act, a statutory body representing the Crown.

2 Definition

In this Schedule:

liabilities means any liabilities, debts or obligations (whether present or future and whether vested or contingent and whether personal or assignable).

3 Objectives of Corporation

The objectives of RTC are as follows:

- (a) to manage its assets, rights and liabilities effectively and responsibly,
- (b) to minimise the risk exposure of the State arising from its activities,
- (c) to achieve the efficient and timely winding up of residual business activities.

4 Functions of Residual Transport Corporation

- (1) RTC has the following functions:
 - (a) to hold, manage, operate and maintain transport assets vested in or owned by it, or to be vested in or owned by it,
 - (b) to conduct any business (whether or not related to any of its other functions) that it considers will further its objectives,

- (c) any other functions conferred or imposed on it by or under this or any other Act.
- (2) RTC may do any thing that is supplemental or incidental to the exercise of its functions.
- (3) RTC may exercise its functions within or outside New South Wales.

5 Disposal of property

RTC may sell, lease or otherwise dispose of any or all of its property.

Part 2 Management of Residual Transport Corporation

6 Management and control of affairs of Residual Transport Corporation

- (1) The affairs of RTC are to be managed and controlled by the Transport Secretary or such other person as may be appointed by the Minister (the *RTC manager*).
- (2) Any act, matter or thing done in the name of, or on behalf of, RTC by the RTC manager is taken to have been done by RTC.
- (3) The seal of RTC is to be kept by the RTC manager and affixed to a document only:
 - (a) in the presence of the RTC manager or a member of staff of RTC authorised by the RTC manager, and
 - (b) with an attestation by the signature of the RTC manager or that member of staff of the fact of the affixing of the seal.

7 Delegation of functions of Residual Transport Corporation

- (1) RTC may delegate to any person any of the functions of RTC, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by RTC if the delegate is authorised in writing to do so by RTC.
- (3) In this clause, *authorised person* means:
 - (a) a member of staff of RTC, or
 - (b) a person of a class prescribed by the regulations or approved by the Transport Secretary.

8 Staff of Residual Transport Corporation

- (1) RTC may arrange for the use of the services of any staff or facilities of any government department or public authority, including the staff or facilities of TfNSW or the Transport Service.
- (2) A person whose services are made use of by RTC under subclause (1) is taken to be a member of staff of RTC.
- (3) Without limiting subclause (1), RTC may appoint any such person to a position with RTC that is designated by RTC and may remove the person from that designated position at any time.

Part 3 Miscellaneous

9 Residual Transport Corporation Fund

(1) Establishment of Fund

There is established in the Special Deposits Account a fund called the Residual Transport Corporation Fund.

(2) Payments into Residual Transport Corporation Fund

There is to be paid into the Residual Transport Corporation Fund:

- (a) all money received by or on account of RTC, and
- (b) all money advanced to RTC by the Treasurer, and
- (c) all money:
 - (i) appropriated by Parliament for the purposes of TfNSW and allocated to RTC by TfNSW, or
 - (ii) otherwise appropriated by Parliament for the purposes of RTC, and
- (d) the proceeds of the investment of money in the Fund, and
- (e) all other money required by or under this or any other Act to be paid into the Fund.

(3) Payments from Residual Transport Corporation Fund

There is to be paid from the Residual Transport Corporation Fund:

- (a) all payments made on account of RTC or otherwise required to meet expenditure incurred in relation to the functions of RTC, and
- (b) all other payments required by or under this or any other Act to be paid from the Fund.

10 Financial duties generally

Sections 81 and 82 apply to RTC.

11 Extension of references to RailCorp

The regulations may provide that a reference in any Act (other than this Act) or instrument, or in any other document, to RailCorp is to be read as a reference to RTC.

1.2 Electricity (Consumer Safety) Act 2004 No 4

Section 3 Definitions

Insert after paragraph (b2) of the definition of *electricity supply authority* in section 3 (1):

- (b3) Sydney Trains, and

1.3 Electricity Network Assets (Authorised Transactions) Act 2015 No 5

Section 3 Interpretation—key definitions

Insert after paragraph (d) of the definition of *associated electricity network land*:

- (d1) Sydney Trains,

1.4 Electricity Supply Act 1995 No 94

[1] Section 53A Definitions

Insert “, Sydney Trains” after “Rail Corporation New South Wales” in paragraph (c) of the definition of *private land*.

[2] Section 191 Regulations

Insert “, Sydney Trains” after “Rail Corporation New South Wales” in section 191 (2A).

[3] Section 191 (2A)

Omit “either of those entities”. Insert instead “any of those entities”.

[4] Dictionary

Insert “, Sydney Trains” after “Rail Corporation New South Wales” in paragraph (b) of the definition of *distribution system*.

1.5 Environmental Planning and Assessment Regulation 2000

Clause 244D Definitions

Insert “(within the meaning of Part 8A of the *Transport Administration Act 1988*)” after “rail authority” in the definition of *ARTC rail infrastructure facilities*.

1.6 Explosives Regulation 2013

Clause 91 Carriage of explosives on public passenger vehicles

Insert “Part 9 of” before “the *Transport Administration Act 1988*” in clause 91 (2) (c).

1.7 Government Telecommunications Act 1991 No 77

Section 32 Establishment of the Board

Omit “Minister responsible for Rail Corporation New South Wales” from section 32 (3) (f).

Insert instead “Minister administering Part 1A of the *Transport Administration Act 1988*”.

1.8 Impounding Act 1993 No 31

[1] Dictionary

Insert the following after the matter relating to Rail Corporation New South Wales in the definition of *area of operations*:

- in the case of an impounding officer appointed by Sydney Trains, land owned by or under the control of Sydney Trains,
- in the case of an impounding officer appointed by NSW Trains, land owned by or under the control of NSW Trains,
- in the case of an impounding officer appointed by Residual Transport Corporation of New South Wales, land owned by or under the control of that body,
- in the case of an impounding officer appointed by Transport for NSW, land owned by or under the control of that body,

[2] Dictionary, definition of “impounding authority”

Insert after the matter relating to Rail Corporation New South Wales:

- Sydney Trains,
- NSW Trains,
- Residual Transport Corporation of New South Wales,
- Transport for NSW,

1.9 Liquor Act 2007 No 90

Section 6 Exemptions from Act

Omit “Rail Corporation New South Wales as are determined by that corporation” from section 6 (1) (a).

Insert instead “Rail Corporation New South Wales, Sydney Trains or NSW Trains as are determined by those corporations”.

1.10 Local Government Act 1993 No 30

[1] Section 555 What land is exempt from all rates?

Omit “a public transport agency (within the meaning of section 3C” from section 555 (1) (g1).

Insert instead “Residual Transport Corporation of New South Wales or a public transport agency (within the meaning”.

[2] Section 600 Rebates in respect of certain land vested in public bodies

Insert “Sydney Trains, NSW Trains, Residual Transport Corporation of New South Wales,” after “Rail Corporation New South Wales,” in the definition of *public body* in section 600 (9).

[3] Section 742 Dispute resolution

Insert after the matter relating to Rail Corporation New South Wales in section 742 (7):

- Residual Transport Corporation of New South Wales
- Sydney Trains
- NSW Trains

1.11 Passenger Transport Act 1990 No 39

[1] Section 4 Objects

Insert “, Sydney Trains, NSW Trains” after “RailCorp” in section 4 (d).

[2] Section 5 Crown bound by Act

Insert “Sydney Trains, NSW Trains,” after “Sydney Ferries,” in section 5 (2).

1.12 Passenger Transport Act 2014 No 46

[1] Schedule 4 Amendment of Acts

Omit subsection (2) from Schedule 4.12 [5]. Insert instead:

- (2) The terms and conditions on which the functions of RailCorp, Sydney Trains, and NSW Trains as rail infrastructure owners are to be carried out are to be set

out in a contract entered into between TfNSW (on behalf of the State) and the entity concerned.

[2] Schedule 4.12 [6]

Omit subsection (3). Insert instead:

- (3) The terms and conditions on which access to the NSW rail network is to be provided by RailCorp are to be set out in a contract entered into between TfNSW (on behalf of the State) and RailCorp.
- (3A) The terms and conditions on which network control services are to be provided by the body responsible in accordance with section 99D are to be set out in a contract entered into between TfNSW (on behalf of the State) and that body.

1.13 Pipelines Act 1967 No 90

Section 3 Definitions

Insert “Sydney Trains, NSW Trains, Residual Transport Corporation of New South Wales,” after “Rail Corporation New South Wales,” in paragraph (a) of the definition of *public authority* in section 3 (1).

1.14 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory bodies

Insert in alphabetical order:

Residual Transport Corporation of New South Wales

1.15 Railway Construction (Maldon to Port Kembla) Act 1983 No 112

Section 2 Interpretation

Omit “Rail Corporation New South Wales” from the definition of *the Authority* in section 2 (1).

Insert instead “Transport for NSW”.

1.16 Retail Leases Act 1994 No 46

Section 82A Certain transport and rail authorities

Omit “Rail Corporation New South Wales as lessor of a retail shop is”.

Insert instead “Transport for NSW, Rail Corporation New South Wales, Sydney Trains and NSW Trains as lessors of retail shops are”.

1.17 Roads Act 1993 No 33

Section 94 Roads authority may carry out drainage work across land adjoining public road etc

Insert “Transport for NSW, Sydney Trains, NSW Trains, Residual Transport Corporation of New South Wales,” after “Rail Corporation New South Wales,” in section 94 (2).

1.18 Rural Fires Act 1997 No 65

[1] Section 27 Permission of certain rail and transport authorities required

Insert “Transport for NSW, Sydney Trains, NSW Trains, Residual Transport Corporation of New South Wales,” after “Rail Corporation New South Wales,”.

[2] Section 100A Definitions

Insert “Transport for NSW, Residual Transport Corporation of New South Wales,” after “Rail Corporation New South Wales,” in paragraph (c) of the definition of *managed land* in section 100A (1).

[3] Dictionary

Insert “Transport for NSW, Residual Transport Corporation of New South Wales,” after “Rail Corporation New South Wales,” in paragraph (c) of the definition of *managed land*.

1.19 Water Act 1912 No 44

[1] Section 12 Licence

Insert “Sydney Trains, NSW Trains, Residual Transport Corporation of New South Wales,” after “Rail Corporation New South Wales,” in section 12 (3).

[2] Section 14 Renewal

Insert “Sydney Trains, NSW Trains, Residual Transport Corporation of New South Wales,” after “Rail Corporation New South Wales,” in section 14 (1B).

Schedule 2 Amendment of legislation relating to conversion of RailCorp to Transport Asset Holding Entity

2.1 Transport Administration Act 1988 No 109

[1] Section 3 Definitions

Omit “RailCorp,” from the definition of *public transport agency* in section 3 (1).

[2] Section 3 (1), definition of “rail infrastructure owner”

Insert in appropriate order:

- (a3) in the case of any rail infrastructure facilities owned by TAHE or vested in TAHE by or under this or any other Act, TAHE, or

[3] Section 3 (1)

Omit the definition of *RailCorp*. Insert in alphabetical order:

board of TAHE, means the board of directors of TAHE.

listed functions of TAHE—see section 11 (1).

SOC Act means the *State Owned Corporations Act 1989*.

TAHE means Transport Asset Holding Entity of New South Wales constituted under Part 2.

voting shareholders of TAHE, means the voting shareholders within the meaning of the SOC Act.

[4] Section 3B Ministerial responsibility and delegation

Omit section 3B (1) (a).

[5] Section 3G Directions by TfNSW to public transport agencies

Omit section 3G (1) (a).

[6] Part 2

Omit the Part. Insert instead:

Part 2 Transport Asset Holding Entity

Division 1 Constitution and management of Transport Asset Holding Entity

4 Establishment of Transport Asset Holding Entity

- (1) The corporation constituted under section 4 immediately before its substitution by the *Transport Administration Amendment (Transport Entities) Act 2017* is continued by this section with the corporate name of Transport Asset Holding Entity of New South Wales.
- (2) On and from the commencement of this section:
 - (a) the corporate name of Rail Corporation New South Wales is changed to Transport Asset Holding Entity of New South Wales, and

- (b) that body, for all purposes (including the rules of private international law), continues in existence under its new name so that its identity is not affected.

Note. The SOC Act provides that Transport Asset Holding Entity is a statutory State owned corporation and also contains a number of provisions that apply to TAHE as a statutory State owned corporation. In particular:

- (a) Part 3 contains provisions relating to the status of TAHE, the application of the *Corporations Act 2001* of the Commonwealth, the issue of shares to the Treasurer and another Minister, the board of directors, the chief executive officer, the employment of staff, the giving of directions by the portfolio Minister (including directions for the performance of non-commercial activities or the carrying out of public sector policies), the constitution of TAHE, dividends and tax-equivalent payments, government guarantees, the sale or disposal of assets and the legal capacity and general powers of TAHE, and
- (b) Part 4 deals with the accountability of TAHE (including statements of corporate intent, annual reports and accounts), and
- (c) Part 5 deals with miscellaneous matters (including the duties and liabilities of directors and the application of public sector legislation).

5 Foundation charter of TAHE

- (1) For the purposes of the SOC Act, the foundation charter of TAHE is this Part (but not the remainder of this Act).

Note. Section 3 of the SOC Act defines the **foundation charter** of a statutory State owned corporation (**SOC**) as the whole of any Act by which a SOC is established for the purposes of the SOC Act and, in particular, for the purposes of the provisions relating to the legal capacity of statutory SOCs and assumptions that they have complied with that Act and their foundation charter.

- (2) Nothing in this section limits the operation of section 4.

6 Board of directors

- (1) TAHE is to have a board of directors.
- (2) The board is to consist of:
 - (a) no fewer than 3 and not more than 7 directors appointed by the voting shareholders, and
 - (b) the Transport Secretary.
- (3) The directors appointed under subsection (2) (a) are to be persons who, in the opinion of the voting shareholders, will assist TAHE to achieve its principal objectives.
- (4) One of the directors is, in and by the director's instrument of appointment or in and by another instrument executed by the voting shareholders, to be appointed as chairperson of the board.
- (5) The chief executive officer may be appointed as a director.
- (6) The board is accountable to the voting shareholders in the manner set out in Part 4 of the SOC Act and in the constitution of TAHE.
- (7) The voting shareholders may remove a director (other than the Transport Secretary), or the chairperson, from office at any time for any or no reason and without notice and, in that event, the office of the director or chairperson is taken to have become vacant for the purposes of Schedule 8 to the SOC Act.

Note. For example, the voting shareholders may remove a director, or the chairperson, from office if TAHE contravenes its operating licence.
- (8) Subject to subsections (9)–(11), Schedule 8 to the SOC Act has effect with respect to the constitution and procedure of the board.

- (9) The provisions of section 20J of the SOC Act, and of clauses 2 (1) and (2) and 7 (1) (d) and (2) of Schedule 8 to the SOC Act, do not apply to TAHE or to the chairperson.
- (10) The provisions of clause 6 of Schedule 8 to the SOC Act do not apply to the chief executive officer if appointed as a director, and the chief executive officer is not entitled to remuneration under that clause in his or her capacity as a director.
- (11) The provisions of clauses 5–9 of Schedule 8 to the SOC Act do not apply to the Transport Secretary in his or her capacity as a director.

7 Chief executive officer

- (1) The chief executive officer of TAHE is to be appointed by the board but only with the approval of the voting shareholders.
- (2) Subject to this section, the chief executive officer holds office for such term not exceeding 5 years as may be specified in the instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.
- (3) The Governor, on the recommendation of the Minister, may remove the chief executive officer of TAHE from office at any time for any or no reason and without notice. Such a removal cannot be effected unless it is recommended by the board.
- (4) The chief executive officer is entitled to be paid such remuneration (including travelling and subsistence allowances) as the board may determine with the approval of the voting shareholders.
- (5) The board may, with the approval of the voting shareholders, fix the conditions of employment of the chief executive officer in so far as they are not fixed by or under any other Act or law.
- (6) The board may require the chief executive officer to enter into performance agreements.
- (7) The chief executive officer may delegate any functions of the chief executive officer to an employee of TAHE, but this power is subject to any directions of the board.
- (8) The *Government Sector Employment Act 2013* (Part 6 included) does not apply to the chief executive officer.
- (9) The provisions of section 20K of the SOC Act, and of Schedule 9 to that Act, do not apply to the chief executive officer.

8 Acting chief executive officer

- (1) The board may, from time to time, appoint a person to act in the office of chief executive officer during the illness or absence of the chief executive officer.
- (2) The board may remove a person from office as acting chief executive officer, at any time, for any or no reason and without notice.
- (3) A person, while acting in the office of chief executive officer:
 - (a) has all the functions of the chief executive officer and is taken to be the chief executive officer, and
 - (b) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the board may determine with the approval of the voting shareholders.

- (4) For the purposes of this section, a vacancy in the office of a chief executive officer is regarded as an absence from office.
- (5) Clause 5 of Schedule 9 to the SOC Act does not apply to an acting chief executive officer of TAHE.
- (6) On and from the SOC conversion day until the first meeting of the board, the voting shareholders may, from time to time, appoint a person to act in the office of chief executive officer until a chief executive officer (or acting chief executive officer) is appointed by the board.

9 Application of SOC Act

The provisions of this Part are in addition to and do not (except to the extent to which this Part provides) derogate from the provisions of the SOC Act.

Division 2 Objectives and functions of Transport Asset Holding Entity

10 Objectives of TAHE

- (1) The principal objectives of TAHE are as follows:
 - (a) to undertake its activities in a safe and reliable manner,
 - (b) to be a successful business and, to this end:
 - (i) to operate at least as efficiently as any comparable businesses, and
 - (ii) to maximise the net worth of the State's investment in TAHE,
 - (c) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates,
 - (d) where its activities affect the environment, to conduct its operations in compliance with the principles of ecologically sustainable development contained in section 6 (2) of the *Protection of the Environment Administration Act 1991*,
 - (e) to exhibit a sense of responsibility towards regional development and decentralisation in the way in which it operates.
- (2) Each of the principal objectives of TAHE is of equal importance.
- (3) The provisions of section 20E of the SOC Act do not apply to TAHE.

11 Functions of TAHE

- (1) For the purposes of this Act, the *listed functions* of TAHE are as follows:
 - (a) to hold, manage, operate and maintain transport assets vested in or owned by it, or to be vested in or owned by it,
 - (b) to establish, finance, acquire, construct and develop transport assets to be vested in or owned by it,
 - (c) to promote and facilitate access to the part of the NSW rail network vested in or owned by TAHE in accordance with any current NSW rail access undertaking or otherwise lease or make available transport assets vested in or owned by TAHE to other persons or bodies,
 - (d) to acquire and develop land for the purpose of enabling TAHE to carry out its other functions (including the acquisition of land under section 12).
- (2) TAHE may:

- (a) provide facilities or services that are necessary, ancillary or incidental to its listed functions, and
 - (b) conduct any business or activity (whether or not related to its listed functions) that it considers will further its objectives.
- (3) However, the listed functions of TAHE and its functions under subsection (2) may only be exercised under the authority of, and in accordance with, one or more operating licences.
- (4) TAHE also has such other functions as may be conferred or imposed on it:
- (a) by or under any other Act or law, or
 - (b) by an operating licence.
- (5) Nothing in this Act requires the authorisation of an operating licence for the exercise of a function that is conferred or imposed on TAHE by or under any other Act or law.

12 Acquisition of land by TAHE

- (1) TAHE may, for any purposes of TAHE, acquire land (including an interest in land) by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
- (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 TAHE to exercise its functions in relation to land under this Act.
- (3) For the purposes of the *Public Works and Procurement Act 1912*, any such acquisition of land is taken to be an authorised work and TAHE is, in relation to that authorised work, taken to be the Constructing Authority.
- (4) TAHE may not give a proposed acquisition notice under the *Land Acquisition (Just Terms Compensation) Act 1991* without the approval of the Minister.
- (5) Any such acquisition is not void merely because it is expressed to be for the purposes of TAHE or for the purposes of this Act.
- (6) Part 3 of the *Public Works and Procurement Act 1912* does not apply in respect of works constructed for the purposes of this section.

Note. Section 20X of the SOC Act prohibits the acquisition of certain fixed assets by a statutory State owned corporation or any of its subsidiaries without the prior written approval of its voting shareholders.

Division 3 Operating licences

13 Grant of operating licences

- (1) The Minister may grant one or more operating licences to TAHE to authorise it, in accordance with this Act, to carry out the listed functions specified in the licence, and such other functions as may be conferred or imposed on it by the licence, in the circumstances (if any) specified in the licence.
- Note.** Section 11 (5) provides that nothing in this Act requires the authorisation of an operating licence for the exercise of a function that is conferred or imposed on TAHE by or under a provision of this Act (other than section 11) or by or under any other Act or law.
- (2) If TAHE is granted more than one operating licence, each operating licence must specify the functions to which it relates and the areas or circumstances (or both) in which those functions may be exercised under the authority of that licence.

- (3) Except to the extent to which this Act expressly provides, nothing in an operating licence limits the requirements imposed by or under any other Act or law with respect to the functions referred to in subsection (1).
- (4) An operating licence may authorise TAHE to carry out any of its functions outside of the State.
- (5) In this section, *listed functions* of TAHE include functions under section 11 (2).

14 Terms and conditions of operating licence

- (1) An operating licence is subject to the terms and conditions determined by the Minister.
- (2) Without limiting subsection (1), an operating licence may include terms or conditions dealing with the following matters:
 - (a) compliance by TAHE with network and asset standard requirements issued from time to time by TfNSW,
 - (b) a pricing regime or structure relating to assets leased or to which access is made available by TAHE,
 - (c) arrangements under which TAHE assets are leased or to which access is made available,
 - (d) safety integrity,
 - (e) integration of transport modes,
 - (f) transport services which TAHE is permitted or not permitted to operate itself,
 - (g) capital works programs, procurement and asset lifecycle (including maintenance or maintenance outsourcing),
 - (h) businesses and activities conducted outside the State,
 - (i) development, use or disposal of TAHE's real property or transport infrastructure.

Note. In the case where TAHE has been granted more than one operating licence, section 13 (2) requires each operating licence to specify the functions of TAHE to which the licence relates and the circumstances (or both) in which those functions may be exercised under the authority of that licence.

15 Amendment of operating licence

- (1) The Minister may:
 - (a) amend an operating licence (including by adding, altering or omitting functions authorised by the licence or areas or circumstances in which such functions may be exercised under the authority of the licence), or
 - (b) substitute an operating licence, or
 - (c) impose, amend or revoke conditions of the operating licence.
- (2) The Minister is to consult with TAHE before exercising a function under subsection (1).

16 Term of operating licence

- (1) The term of an operating licence is to be for the period determined by the Minister.
- (2) The Minister may renew an operating licence.
- (3) An operating licence may be renewed even if its term has expired.

17 Contravention of operating licence

- (1) If, in the opinion of the Minister, TAHE contravenes an operating licence, the Minister may cause a notice to be served on TAHE requiring it to rectify the contravention within a specified period.
Note. See also section 6 (7)—the voting shareholders may remove a director, or the chairperson, from office at any time for any reason, including for example, for the reason that TAHE has contravened its operating licence.
- (2) If, in the opinion of the Minister, TAHE contravenes an operating licence, and whether or not a notice has been served under subsection (1) or the period specified in the notice has ended, the Minister may direct that TAHE is to pay a monetary penalty of an amount to be determined, subject to the regulations, by the Minister.
- (3) The fact that the Minister has directed that action be taken under this section does not prevent the Minister directing that the same or other action under this section be taken if the contravention continues or a fresh contravention occurs.
- (4) An operating licence may make provision for advice to be provided to the Minister in connection with the exercise of the Minister's functions under this section.
- (5) A penalty imposed under this section may be recovered in any court of competent jurisdiction as if it were a debt due to the State.

18 Cancellation of operating licence

- (1) An operating licence of TAHE may be cancelled only in the circumstances specified by this section.
- (2) The Minister may cancel an operating licence of TAHE if TAHE ceases for any or no reason, otherwise than as authorised by the operating licence, to carry out the functions of TAHE to which the licence relates in accordance with the operating licence.
- (3) The Minister may cancel any or all of the operating licences of TAHE if:
 - (a) TAHE:
 - (i) is, in the opinion of the Minister, in material default in complying with any operating licence, viewed in terms of the operation of the operating licence as a whole, and
 - (ii) has not, within the time specified by the Minister in a notice to TAHE, either rectified the default or shown cause, to the satisfaction of the Minister, why the operating licence should not be cancelled, or
 - (b) TAHE has been convicted on more than 3 occasions within a period of 12 months of offences that are punishable by a fine of at least \$10,000 or, if TAHE were a natural person, imprisonment for 12 months or more.
- (4) A notice under section 17 (1) can also be regarded as a notice for the purposes of subsection (3) (a) (ii).
- (5) If an operating licence is cancelled under this section, the Minister may, by order published in the Gazette, transfer to the State or a public or local authority (as specified in the order), from a date specified in the order, such of the assets and rights of TAHE that are specified in the order and that, in the opinion of the Minister, are necessary to enable the State or the public or local authority to exercise such of the functions exercisable (or formerly exercisable) by TAHE as appear to be necessary in the public interest.

- (6) An order under this section may also provide for:
 - (a) the State or a public or local authority to assume those liabilities of TAHE that the Minister considers appropriate and specifies in the order, or
 - (b) the State or a public or local authority to discharge the whole or any part of the liabilities of TAHE.
- (7) Schedule 4 applies to any transfer of assets or rights or any assumption of liabilities under this section in the same way as it applies to a transfer of assets, rights or liabilities under an order to which that Schedule applies.
- (8) In this section, *assets*, *rights* and *liabilities* have the same meanings as those terms have in Schedule 4.

[7] Section 36C Other functions of Sydney Trains (as inserted by Schedule 1.1 [14])

Insert “TAHE,” before “RTC” in section 36C (2) (e).

[8] Section 37C Other functions of NSW Trains (as inserted by Schedule 1.1 [14])

Insert “TAHE,” before “RTC” in section 37C (2) (e).

[9] Section 42A Definitions

Omit “RailCorp” from paragraph (a) of the definition of *transport authority*.

Insert instead “TAHE”.

[10] Section 55A Definition of “transport authority”

Omit section 55A (b).

[11] Part 7, Division 1A Staff of RailCorp

Omit the Division.

[12] Section 65 Definitions

Omit paragraph (b) of the definition of *transport authority*.

[13] Section 68C Employment in the Transport Service (as amended by Schedule 1.1 [19])

Omit section 68C (2) and note. Insert instead:

- (2) The Government of New South Wales may also employ persons in the Transport Service to enable Sydney Trains, NSW Trains or RTC (or a public subsidiary corporation of Sydney Trains, NSW Trains or RTC) to exercise their functions.

Note. NSW Trains and Sydney Trains also have the power to employ staff separately (see sections 64A and 64D for Sydney Trains and NSW Trains, respectively). Staff employed by Sydney Trains and NSW Trains are not employed in the Transport Service.

[14] Section 68Q Miscellaneous provisions relating to the Transport Service

Omit “RailCorp,” wherever occurring in section 68Q (5) and (6).

[15] Section 68Q (10) (d)

Omit the paragraph.

[16] Part 8, Division 1 Financial provisions relating to RailCorp

Omit the Division.

- [17] **Section 81A Definition**
Omit paragraph (a) of the definition of *Authority*.
- [18] **Part 8, Division 5, heading**
Omit “**RailCorp,**”
- [19] **Section 84 Definitions**
Omit “NSW Trains or RailCorp” from the definition of *Authority*.
Insert instead “or NSW Trains”.
- [20] **Section 85 Orders fixing charges**
Omit section 85 (1).
- [21] **Section 85 (3)**
Omit “RailCorp,”.
- [22] **Section 88A Definitions**
Omit “RailCorp” from the definition of *rail authority*. Insert instead “TAHE”.
- [23] **Section 88G Severance of rail infrastructure facilities from leased or licensed land**
Omit “RailCorp” wherever occurring in section 88G (1) and (2). Insert instead “TAHE”.
- [24] **Section 89 Definitions**
Omit “RailCorp” from the definition of *rail authority*. Insert instead “TAHE”.
- [25] **Section 89, definition of “State rail operator”**
Omit “RailCorp”. Insert instead “TAHE”.
- [26] **Section 94 Transfers of assets, rights and liabilities**
Insert after section 94 (9) (as inserted by Schedule 1.1 [36]):
(10) The Minister may make an order under this section that transfers assets, rights or liabilities to or from TAHE only with the consent of TAHE.
- [27] **Section 107 Definition of “transport authority”**
Omit section 107 (1) (a).
- [28] **Section 109 Seals of Authorities**
Omit paragraph (a) of the definition of *Authority* in section 109 (2).
- [29] **Section 112 Personal liability of certain persons**
Omit “RailCorp,” from the definition of *member of a transport authority* in section 112 (2).
- [30] **Section 115 Recovery of charges etc by transport authority**
Insert “and TAHE” after “RTC” in section 115 (2) (as inserted by Schedule 1.1 [43]).
- [31] **Section 116 Liability of vehicle owner for parking offences on Authority’s land**
Omit “RailCorp” from the definition of *parking offence* in section 116 (7).
Insert instead “TAHE”.

[32] Schedule 1 Functions of Transport for NSW

Insert “TAHE,” after “shared services to” in clause 1 (i).

[33] Schedule 1, clause 1 (i)

Insert “TAHE,” after “deployment of staff to”.

[34] Schedule 1, clause 4A (4)

Omit “RailCorp” from paragraph (a) of the definition of *transport authority*.
Insert instead “TAHE”.

[35] Schedule 1, clause 5 (7) (as inserted by Schedule 1.1 [48])

Insert “and TAHE” after “RTC”.

[36] Schedule 2 Provisions relating to Chief Executives

Omit paragraph (a) of the definition of *Chief Executive* in clause 1.

[37] Schedule 4 Transfer of assets, rights and liabilities

Insert after clause 13 (4) (as inserted by Schedule 1.1 [53]):

(5) This clause does not apply to any transfer to or from TAHE.

[38] Schedule 4, clause 14 (1) (as inserted by Schedule 1.1 [53])

Omit the subclause. Insert instead:

(1) This clause applies to the following transfers under an order to which this Schedule applies:

- (a) a transfer to TfNSW, TAHE or RTC,
- (b) a transfer from TfNSW or TAHE to a public transport agency.

[39] Schedule 5 Extended leave for certain staff

Omit paragraph (a) of the definition of *Authority* in clause 2.

[40] Schedule 6A Powers relating to rail infrastructure facilities and land

Omit “RailCorp” from paragraph (a) of the definition of *rail authority* in clause 1.
Insert instead “TAHE”.

[41] Schedule 6A, clause 1B (2)

Omit “RailCorp”. Insert instead “TAHE”.

[42] Schedule 6A, clause 2B

Omit the clause.

[43] Schedule 6A, clause 2C (4)

Omit “RailCorp”. Insert instead “TAHE”.

[44] Schedule 6A, clause 10

Omit the clause.

[45] Schedule 6A, clause 13A (4) and (4A)

Omit clause 13A (4). Insert instead:

- (4) Sydney Trains and NSW Trains may not give a proposed acquisition notice under the *Land Acquisition (Just Terms Compensation) Act 1991* without the approval of the Transport Secretary.
- (4A) TAHE may not give a proposed acquisition notice under the *Land Acquisition (Just Terms Compensation) Act 1991* without the approval of the Minister.

[46] Schedule 6A, clause 13A (9) (as inserted by Schedule 1.1 [63])

Omit “RailCorp”. Insert instead “TAHE”.

[47] Schedule 6B Special provisions for underground rail facilities

Omit “RailCorp” from the definition of *rail authority* in clause 1 (1).

Insert instead “TAHE”.

[48] Schedule 7 Savings, transitional and other provisions

Insert at the end of the Schedule, with appropriate Part and clause numbering:

Part Provisions relating to TAHE

After SOC conversion day references to RailCorp may be deemed not to be references to TAHE

Despite section 53 of the *Interpretation Act 1987*, the regulations may provide that, on and from SOC conversion day, a specified reference in an Act (other than this Act) or instrument, or in another document, to RailCorp is not taken to be a reference to TAHE.

Note. Section 53 of the *Interpretation Act 1987* provides that if an Act alters the name of a body:

- (a) the body continues in existence under its new name so that its identity is not affected, and
- (b) a reference in any Act or instrument, or in any other document, to the body under its former name shall, except in relation to matters that occurred before the alteration took place, be read as a reference to the body under its new name.

Timetable for first statement of corporate intent

A period within which any matter is required to be done under section 21 of the *State Owned Corporations Act 1989* in connection with the first statement of corporate intent of TAHE may be extended by the voting shareholders of TAHE, but any such period of extension is not to exceed 3 months.

Exemption from State taxes for TAHE as a SOC for 12 months

- (1) State tax is not chargeable in respect of any of the following:
 - (a) land owned by, or leased to, TAHE and used primarily for railway purposes (other than land subject to a lease or licence by TAHE to another person other than a public transport agency),
 - (b) any other matter or thing done by TAHE in the exercise of its functions.
- (2) TAHE is not liable for payment of the parking space levy under the *Parking Space Levy Act 2009* in respect of any premises owned by, or leased to, TAHE (other than premises subject to a lease or licence by TAHE to another person).

- (3) Subclauses (1) and (2) have effect for the period of 12 months commencing on the SOC conversion day.
- (4) The regulations under this Act may, on the recommendation of the Minister and with the approval of the Treasurer, provide that State tax is not chargeable in respect of any matter or thing, or classes of matters or things, prescribed by the regulations and done by TAHE in the exercise of its functions after the end of that period.
- (5) The provisions of this clause are in addition to and do not derogate from the provisions of the *State Owned Corporations Act 1989*.
- (6) In this clause:
railway purposes includes the following:
 - (a) the operation and maintenance of the NSW rail network,
 - (b) stations and platforms,
 - (c) office buildings used in association with railway purposes,
 - (d) rolling stock maintenance facilities,
 - (e) freight centres and depots,
 - (f) related facilities,
 - (g) purposes ancillary to other purposes set out in this definition.*State tax* means duty under the *Duties Act 1997* or any other tax, duty, rate, fee or other charge imposed by or under any Act or law of the State, other than payroll tax and the fire and emergency services levy under the *Fire and Emergency Services Levy Act 2017*.

[49] Schedule 8 SRA Residual Holding Corporation

Omit “RailCorp,” from clause 11 (1).

2.2 Coastal Management Act 2016 No 20

Section 4 Definitions

Omit paragraph (c) of the definition of *electricity supply authority* in section 4 (1).

2.3 Impounding Act 1993 No 31

[1] Dictionary

Omit the matter relating to Rail Corporation New South Wales from the definition of *area of operations*.

Insert instead:

- in the case of an impounding officer appointed by Transport Asset Holding Entity of New South Wales, land owned by or under the control of Transport Asset Holding Entity of New South Wales,

[2] Dictionary, definition of “impounding authority”

Omit the matter relating to Rail Corporation New South Wales.

Insert instead:

- Transport Asset Holding Entity of New South Wales,

2.4 Liquor Act 2007 No 90

Section 6 Exemptions from Act

Omit “Rail Corporation New South Wales,” from section 6 (1) (a).

2.5 Local Government Act 1993 No 30

[1] Section 555 What land is exempt from all rates?

Insert after section 555 (1) (g1):

- (g2) land that is vested in or owned by Transport Asset Holding Entity of New South Wales and in, on or over which rail infrastructure facilities (within the meaning of the *Transport Administration Act 1988*) are installed,

[2] Section 600 Rebates in respect of certain land vested in public bodies

Omit “Rail Corporation New South Wales” from the definition of *public body* in section 600 (9).

Insert instead “Transport Asset Holding Entity of New South Wales”.

[3] Section 742 Dispute resolution

Omit the matter relating to Rail Corporation New South Wales from section 742 (7).

Insert instead:

- Transport Asset Holding Entity of New South Wales

2.6 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory bodies

Omit “Rail Corporation New South Wales”.

2.7 Railway Construction (Maldon to Port Kembla) Act 1983 No 112

Section 2 Interpretation

Insert “and the Transport Asset Holding Entity of New South Wales” after “Transport for NSW” in the definition of *the Authority* in section 2 (1).

2.8 Roads Act 1993 No 33

Section 211

Omit the section. Insert instead:

211 Contributions to RMS by Transport Asset Holding Entity and State Transit Authority

Transport Asset Holding Entity of New South Wales and the State Transit Authority must pay such amounts to RMS as RMS determines from time to time as contributions in relation to:

- (a) in the case of Transport Asset Holding Entity of New South Wales—the movement of rolling stock over railway lines vested in or owned by that corporation on the Sydney Harbour Bridge, and
- (b) in the case of the State Transit Authority—the carriage of passengers across the Sydney Harbour Bridge.

2.9 State Owned Corporations Act 1989 No 134

Schedule 5 Statutory SOCs

Insert at the end of the Schedule:

Transport Asset Holding Entity of New South Wales