

Redfern-Waterloo Authority Act 2004 No 107

[2004-107]



New South Wales

Status Information

Currency of version

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
Environmental Planning and Assessment Amendment Act 2006 No 8 (not commenced)

Authorisation

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New South Wales

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Redfern-Waterloo Authority Act 2004 No 107



New South Wales

An Act to constitute the Redfern-Waterloo Authority and to specify its functions; to amend certain Acts consequentially; and for other purposes.

Part 1 Preliminary

1 Name of Act

This Act is the *Redfern-Waterloo Authority Act 2004*.

2 Commencement

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

3 Objects of Act

The objects of this Act are:

- (a) to encourage the development of Redfern-Waterloo into an active, vibrant and sustainable community, and
- (b) to promote, support and respect the Aboriginal community in Redfern-Waterloo having regard to the importance of the area to the Aboriginal people, and
- (c) to promote the orderly development of Redfern-Waterloo taking into consideration principles of social, economic, ecological and other sustainable development, and
- (d) to enable the establishment of public areas in Redfern-Waterloo, and
- (e) to promote greater social cohesion and community safety in Redfern-Waterloo.

4 Definitions

In this Act:

Authority means the Redfern-Waterloo Authority constituted by this Act.

Board means the Board, established by this Act, of the Authority.

Chief Executive Officer means the Chief Executive Officer of the Authority holding office

as such under Chapter 2 of the *Public Sector Employment and Management Act 2002*.

council has the same meaning as in the *Local Government Act 1993*.

development has the same meaning as in the *Environmental Planning and Assessment Act 1979*.

exercise a function includes perform a duty.

function includes a power, authority or duty.

managed land—see section 5 (2).

operational area of the Authority—see section 5 (1).

Redfern-Waterloo Plan means the Redfern-Waterloo Plan prepared under section 27.

5 Classification of land

- (1) For the purposes of this Act, the **operational area** of the Authority means the area of land described in Schedule 1.
- (2) For the purposes of this Act, **managed land** means that part of the operational area, not being land vested in the Authority, that is managed by the Authority under an agreement with the owner or occupier of the land.

Part 2 Constitution and management of Authority

6 Constitution of Authority

There is constituted by this Act a corporation with the corporate name of the Redfern-Waterloo Authority.

7 Status of Authority

The Authority is, for the purposes of any Act, a statutory body representing the Crown.

8 Ministerial control

The Authority is subject to the control and direction of the Minister in the exercise of its functions.

9 Board of Authority

- (1) There is to be a Board of the Authority.
- (2) The Board is to consist of the following members:
 - (a) the Chief Executive Officer,
 - (b) not more than 9 persons appointed by the Minister.

- (3) Of the members appointed by the Minister, one is, in and by the instrument of appointment or another instrument made by the Governor, to be appointed as Chairperson of the Board.
- (4) The Minister is to ensure that at least one of the appointed members of the Board is an Aboriginal person (within the meaning of the *Aboriginal Land Rights Act 1983*).
- (5) Schedule 2 has effect with respect to the members and procedure of the Board.

10 Chief Executive Officer

- (1) The Chief Executive Officer is responsible for the day-to-day management of the affairs of the Authority in accordance with the specific policies and general directions of the Board.
- (2) Any act, matter or thing done in the name of, or on behalf of, the Authority by the Chief Executive Officer is taken to have been done by the Authority.

11 (Repealed)

12 Appointment of advisory committees

- (1) The Minister may appoint such advisory committees as the Minister considers appropriate for the purposes of advising the Minister and the Authority for the purposes of this Act.
- (2) An advisory committee has such functions as the Minister may from time to time determine in respect of it.
- (3) An advisory committee consists of such committee members appointed by the Minister as the Minister thinks fit.
- (4) The Minister is to ensure that there are at least 2 representatives of the Aboriginal community of the Redfern-Waterloo area appointed as members of each advisory committee that has functions involving social, human services or employment issues that affect that community.
- (5) The Minister is to consult the Board about the appointment of any advisory committee under this section.
- (6) A committee member holds office for such period as is specified in the instrument of appointment of the committee member, but any such appointment may be terminated by the Minister at any time.
- (7) One of the committee members, in and by the instrument by which the committee member is appointed, is to be appointed as chairperson of the committee.
- (8) A committee member is entitled to be paid such fees and allowances (if any) as the

Minister may determine in respect of the committee member.

- (9) Subject to the regulations and any directions of the Minister, the procedure of an advisory committee appointed under this section is to be as determined by the advisory committee.
- (10) The Minister may dissolve an advisory committee appointed under this section.

13 Delegation of Authority's functions

- (1) The Authority 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 the Authority if the delegate is authorised in writing to do so by the Authority.
- (3) In this section, **authorised person** means:
 - (a) a member of staff of the Authority, or
 - (b) a council, or
 - (c) a person, or committee of persons, of a class approved by the Minister or prescribed by the regulations.

14 Exercise of functions through subsidiary corporations, joint ventures etc

- (1) In this section, **private subsidiary corporation** means a private subsidiary corporation referred to in section 25.
- (2) Any function of the Authority may be exercised:
 - (a) by the Authority itself, or
 - (b) by a private subsidiary corporation, or
 - (c) by the Authority or a private subsidiary corporation, or both, in a partnership, joint venture or other association with public or local authorities or other persons or bodies.

Part 3 Functions of Authority

Division 1 Principal functions

15 Functions—generally

- (1) The Authority has the following functions:
 - (a) to promote, facilitate, manage, undertake and secure the social, economic, ecological and other sustainable development and use of the operational area,

including the development and management of land, the provision of infrastructure and the establishment of public areas,

- (b) to provide and promote housing choices in the operational area (including for Aboriginal residents),
 - (c) to provide and promote employment opportunities for local residents, commercial opportunities for local businesses and cultural development (including to address the needs of the Aboriginal community) in the operational area,
 - (d) to enhance and manage public places in the operational area and to improve, maintain and regulate the use of the public places,
 - (e) to promote, co-ordinate, organise, manage, undertake, secure, provide and conduct cultural, educational, commercial, recreational, entertainment and transport activities and facilities in the operational area,
 - (f) to do any other thing for the sustainable improvement of the operational area.
- (2) In exercising its functions, the Authority is to have as its principal objective the achievement of the outcomes of the Redfern-Waterloo Plan.
 - (3) The Authority is to liaise with any government agency dealing with cultural, public housing, health and other social or community issues in the operational area.
 - (4) In exercising any of its functions, the Authority is, in such cases as it thinks appropriate, to consult with local government, the business community, the local indigenous community, local non-government agencies and the general community.
 - (5) The Authority cannot employ any staff.

Note—

Staff may be employed under Chapter 1A of the [Public Sector Employment and Management Act 2002](#) in the Government Service to enable the Authority to exercise its functions.

16 Other functions

- (1) The Authority has such other functions as are conferred or imposed on it by or under this or any other Act.
- (2) The Authority may do all such supplemental, incidental or consequential acts as may be necessary or expedient for the exercise of its functions.
- (3) In carrying out any of its functions, the Authority is to take into consideration, where relevant, principles of social, economic, ecological and other sustainable development.

17 Land on and in relation to which Authority's functions may be exercised

- (1) The Authority is not limited to exercising its functions on or in relation to land within

the operational area.

- (2) The Authority may exercise its functions on or in relation to public or private land. If any money is advanced from the Fund established under section 34 for the development of private land, the Authority is to implement such measures as the Minister directs for the protection of the investment concerned.
- (3) The regulations may apply provisions (with or without modification) of the *Housing Act 2001* or the *Aboriginal Housing Act 1998* for the purposes of subsection (2).

Division 2 Ancillary functions

18 Acquisition of land

- (1) The Authority may acquire land, for the purposes of this Act, by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
- (2) For the purposes of the *Public Works Act 1912*, any acquisition of land under this Act is taken to be an authorised work, and the Authority is, in relation to that authorised work, taken to be the Constructing Authority.
- (3) Sections 34, 35, 36 and 37 of the *Public Works Act 1912* do not apply to or in respect of works constructed under this Act.

19 Transfer of land or management of land of other public authorities

- (1) If the Minister for a public authority that owns land within the operational area agrees that the land is not being used or required for the core activities of the public authority, the public authority is to transfer:
 - (a) the land, or
 - (b) the management of the land,to the Authority, subject to the terms and conditions agreed to between the Minister for the public authority and the Minister administering this Act.
- (2) An agreement may state whether the transfer is subject to the payment of compensation and, if compensation is to be paid, the amount of the compensation or the basis on which it is to be determined.
- (3) Duty under the *Duties Act 1997* is not chargeable for or in respect of:
 - (a) a transfer effected in accordance with an agreement under this section or a voluntary transfer of land to the Authority by a public authority, or
 - (b) anything certified by the Minister as having been done in consequence of such a transfer (for example, the transfer or conveyance of an interest in land).

(4) A public authority whose land is managed by the Authority under an agreement with the public authority may delegate its functions to the Authority, despite the provisions of any other Act.

(5) In this section:

Minister for a public authority means the Minister administering:

- (a) the Act by which the public authority is constituted or established, or
- (b) in the case of a subsidiary, the Act by which the subsidiary's parent is constituted or established.

public authority includes a State owned corporation within the meaning of the *State Owned Corporations Act 1989* and a subsidiary (within the meaning of that Act) of such a corporation, but does not include a council.

(6) Any dispute arising under this section between the Minister and the Minister for a public authority may be resolved by the Premier.

(7) A Minister or public authority must comply with any direction arising out of the resolution of a dispute under this section and for that purpose is empowered to do so, despite the provisions of this or any other Act.

20 Land dealings

(1) The Authority may, with the consent of the Minister and subject to such conditions as the Minister thinks fit, sell, lease, exchange or otherwise dispose of or deal with any land vested in the Authority and grant easements or rights-of-way over such land or any part of it.

(2) This section does not require the Authority to obtain the consent of the Minister to a lease or licence for a term that, together with the term of any further lease or licence that may be granted under an option in respect of it, does not exceed 5 years.

(3) The Authority must establish and maintain a public register of all land that is, from time to time, vested in or managed by the Authority.

21 Dedication of land

(1) The Authority may, by notification published in the Gazette, declare that it proposes to surrender land described or referred to in the notification to the Crown to be dedicated:

- (a) for any public purpose specified in the notification, or
- (b) if so specified in the notification, as a public road.

(2) When the land is surrendered:

- (a) it becomes Crown land reserved from sale, lease or licence under the *Crown Lands Act 1989*, and
 - (b) on revocation of the reservation, it may be dedicated under that Act for the public purpose specified in the notification or under section 12 of the *Roads Act 1993* as a public road.
- (3) The Authority may, in a notification published under subsection (1), limit the description of, or reference to, land to a specified depth below the surface of the land. If the description or reference is so limited, subsection (2) does not apply to land below the specified depth.
 - (4) The Authority may, by notification published in the Gazette, declare any elevated or subterranean structure owned by the Authority that continues the line of a public road to be a public road. On the publication of the notification in the Gazette, the structure, except in relation to any vesting of the structure, is taken to be a public road.

22 Roads

- (1) A road that is vested in the Authority or managed land cannot be provided, opened, dedicated, closed (within the meaning of Part 4 of the *Roads Act 1993*) or realigned by the Crown, a public authority or any person except with the consent of the Authority.
- (2) Except as provided by subsection (1), this Part does not affect the application of the *Roads Act 1993* or any other Act to any such road.

23 Acquisition of property by gift, devise or bequest

- (1) The Authority may acquire by gift, devise or bequest any property for the purposes of this Act and may agree to carry out the conditions of any such gift, devise or bequest.
- (2) The rule of law against remoteness of vesting does not apply to any condition of a gift, devise or bequest to which the Authority has agreed.
- (3) The *Duties Act 1997* does not apply to or in respect of any gift, devise or bequest made or to be made to the Authority.

24 Dealings with certain property acquired by gift, devise or bequest

- (1) The Authority must not sell, lease, exchange or otherwise dispose of or deal with property acquired by gift, devise or bequest except:
 - (a) if the property has been acquired subject to a condition to which the Authority has agreed under section 23 (1), in accordance with the condition, or
 - (b) in any other case with the approval of the Minister.
- (2) Despite subsection (1) but subject to subsection (3), if the Authority decides that any property that has been acquired by the Authority subject to a condition to which the

Authority has agreed under section 23 (1) is not required for the purposes of the Authority, the Authority may:

- (a) sell the property and retain the proceeds of the sale as property of the Authority, or
- (b) exchange the property for other property, or
- (c) if the Authority is of the opinion that the property is of no commercial value, dispose of the property without valuable consideration,

in contravention of the condition.

- (3) The Authority must not sell, exchange or otherwise dispose of any property under subsection (2) except with the consent of the Minister and in accordance with any condition the Minister may impose upon the grant of that consent.
- (4) The Minister may consent to the sale, exchange or disposal of property for the purposes of this section and may impose any condition the Minister thinks fit upon the grant of that consent.

25 Private subsidiary corporations etc

- (1) In this section:

private corporation means a corporation within the meaning of the [Corporations Act 2001](#) of the Commonwealth formed in or outside New South Wales.

private subsidiary corporation means a private corporation in which the Authority has a controlling interest.

- (2) The Authority may, subject to subsection (3):
 - (a) form, or participate in the formation of, private corporations, and
 - (b) acquire interests in private corporations, and
 - (c) sell or otherwise dispose of interests in private corporations.
- (3) The Authority must not, without the approval of the Minister:
 - (a) form, or participate in the formation of, a private subsidiary corporation, or
 - (b) acquire an interest in a private corporation so that, as a result of the acquisition, the corporation becomes a private subsidiary corporation, or
 - (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.
- (4) A private subsidiary corporation is not, and does not represent, the Crown.

Part 4 Planning within the operational area

26 Interpretation of Part

- (1) For the purposes of this Part, development is carried out by the Authority if the development is carried out by, for or on behalf of the Authority.
- (2) Words and expressions used in the *Environmental Planning and Assessment Act 1979* and in this Part have the same meanings in this Part as they have in that Act. This subsection does not apply to the extent that the context or subject-matter otherwise indicates or requires.

27 Redfern-Waterloo Plan

- (1) For the purpose of assisting the Authority in the exercise of its functions under this Act, the Minister, in consultation with the Board, is to prepare and maintain a plan for the operational area to be called the “Redfern-Waterloo Plan”.
- (2) The Redfern-Waterloo Plan may make provision for or with respect to the following matters in relation to the operational area:
 - (a) the strategic vision for the sustainable improvement of the area,
 - (b) urban design,
 - (c) land use zoning,
 - (d) the carrying out of development,
 - (e) human services,
 - (f) the creation of employment opportunities,
 - (g) infrastructure, including transport and pedestrian facilities,
 - (h) renewal and regeneration of public land and assets,
 - (i) the maintenance of a social mix of income levels, household types and cultural groupings,
 - (j) the provision of affordable housing for owners and tenants (including publicly funded housing),
 - (k) any other matter that the Minister considers is essential for the purposes of this Act.
- (3) The Minister is to make the Redfern-Waterloo Plan publicly available.
- (4) The Minister is to keep the Redfern-Waterloo Plan under review and is to have regard to any public submissions made on the Plan from time to time.

- (5) The Minister may amend or replace the Redfern-Waterloo Plan.
- (6) The Minister may request the Minister administering the *Environmental Planning and Assessment Act 1979* to make any environmental planning instrument that is necessary to give effect to the environmental planning aspects of the Redfern-Waterloo Plan.
- (7) The Minister administering the *Environmental Planning and Assessment Act 1979* may make an environmental planning instrument for the purposes of subsection (6):
 - (a) in accordance with that Act, or
 - (b) by order published in the Gazette.

This subsection has effect despite any provision of the *Environmental Planning and Assessment Act 1979*.

- (8) The Authority may, at the request of the Director-General of the Department of Infrastructure, Planning and Natural Resources, provide resources or undertake work in relation to the preparation of environmental planning instruments, development control plans and environmental studies under the *Environmental Planning and Assessment Act 1979* that will have effect in relation to the operational area.
- (9) A reference in this section to the Redfern-Waterloo Plan includes a reference to an amendment of the Plan or the replacement of the Plan.

28 Authority as approval body for State infrastructure or other significant projects

- (1) This section applies to any development in the operational area that is declared to be a project for the purposes of Part 3A of the *Environmental Planning and Assessment Act 1979*.
- (2) The Minister administering the *Environmental Planning and Assessment Act 1979* may delegate to the Minister his or her functions as the approval body for any project to which this section applies.
- (3) The Minister may subdelegate to the Authority or the Council of the City of Sydney his or her functions as the approval body for any project to which this section applies.

28A Planning agreements with respect to development

The Minister and the Authority are taken to be planning authorities for the purposes of Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979*.

29 Heritage matters

- (1) The provisions of the *Heritage Act 1977* do not apply to the carrying out of development in the operational area that is a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* applies.

- (2) However, an item or part of an item listed on the State Heritage Register is not to be altered or demolished unless:
 - (a) the Minister has consulted the Heritage Council of New South Wales about the matter and has taken into consideration any advice duly provided by the Council, and
 - (b) the Minister is satisfied that it is necessary for the sustainable improvement of the operational area.
- (3) The regulations may make provision for or with respect to the procedures for consulting the Heritage Council of New South Wales and for the provision of advice by that Council.

30 Development contributions for affordable housing

- (1) This section applies to development that is a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* applies and that is carried out on land:
 - (a) within the operational area, or
 - (b) that was the former Carlton United Brewery Site at Broadway, Sydney, being the site described in the contributions plan referred to in section 32.
- (2) A condition may be imposed under Division 6A of Part 4 of the *Environmental Planning and Assessment Act 1979* (as applied by section 75R (4) of that Act) in relation to a project to which this section applies as if:
 - (a) section 94F of that Act (which deals with the circumstances in which affordable housing contributions may be required) applied to a development application for consent to carry out development to which this section applies whether or not it is a development application described in section 94F (1) of that Act, and
 - (b) section 94F (3) (b) of that Act (which requires that affordable housing contributions be authorised by environmental planning instruments made under that Act) were replaced with a requirement that the condition be authorised to be imposed by a contributions plan referred to in section 32 of this Act.
- (3) Anything that is required or permitted to be provided for in an environmental planning instrument in relation to contributions for affordable housing may be provided for in a contributions plan referred to in section 32. In particular, the contributions plan may set out the purposes for which such contributions may be used, including the provision or refurbishment of relevant housing stock.
- (4) (Repealed)
- (5) Conditions may be imposed under Division 6A of Part 4 of the *Environmental Planning*

and Assessment Act 1979 in relation to a project to which this section applies only in accordance with this section.

- (6) Nothing in this section affects any other contributions that may be required to be made under section 31 or under Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979*.

31 Development contributions (other than for affordable housing)

- (1) This section applies to development that is a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* applies and that is carried out on land within the operational area.
- (2) The approval body may impose, as a condition of approval in relation to a project to which this section applies, a requirement that the applicant pay a levy of the percentage, authorised by a contributions plan referred to in section 32 (1), of the proposed cost of carrying out the development.
- (3) Money required to be paid by a condition imposed under this section is to be applied towards the provision, extension or augmentation of public amenities or public services in or in the vicinity of the operational area (or towards recouping the cost of their provision, extension or augmentation). The application of the money is subject to any relevant provisions of the contributions plan referred to in section 32 (1).
- (4) A condition imposed under this section is not invalid by reason only that there is no connection between the development the subject of the approval and the object of expenditure of any money required to be paid by the condition.
- (5) A condition under this section that is of a kind allowed by, and determined in accordance with, a contributions plan referred to in section 32 (1) may not be disallowed or amended by the Land and Environment Court on appeal.
- (6) The regulations may make provision for or with respect to levies under this section, including:
- (a) the means by which the proposed cost of carrying out development is to be estimated or determined, and
 - (b) the maximum percentage of a levy.
- (7) For the purposes of this section, a reference to public amenities or public services includes a reference to open space and the Redfern Railway Station, but does not include a reference to water supply or sewerage services.
- (8) This section does not affect the operation of Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979*. However:
- (a) the approval body cannot impose as a condition of the same approval a condition

under this section as well as a condition under section 94 or any other provision of that Division, and

- (b) a contributions plan referred to in section 32 (1) may replace a contributions plan under that Division for the purposes of any condition imposed under section 94 or any other provision of that Division, and
- (c) section 32 extends to any money resulting from a condition imposed under section 94 or any other provision of that Division.

32 Contributions plans and payment of development contributions

- (1) The Minister may prepare and approve a contributions plan, in accordance with Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979*, for the purposes of sections 30 and 31 in relation to development within the operational area.
- (2) The Minister administering the *Environmental Planning and Assessment Act 1979* may prepare and approve a contributions plan, in accordance with Division 6 of Part 4 of that Act, for the purposes of section 30 in relation to a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* applies carried out on land referred to in section 30 (1) (b) (being land that was the former Carlton United Brewery site).
- (3) The Minister is to consult the Minister administering the *Environmental Planning and Assessment Act 1979* before approving a contributions plan for the purposes of section 31.
- (4) Any money resulting from a contribution referred to in section 30 or 31 is to be paid into the Fund established under section 34.
- (5) The payment into the Fund of money resulting from a contribution referred to in section 30 or 31 does not affect the obligation of the Authority under this Act and the *Environmental Planning and Assessment Act 1979* to apply the money within a reasonable time towards the purpose for which the contribution was required.

33 Matters affecting the Aboriginal Housing Company and “the Block”

- (1) The Minister or a nominee of the Minister is to consult with the Aboriginal Housing Company and other relevant representatives of the Aboriginal community on issues and strategies affecting, or the long-term strategic vision for, the Block (and its immediate area).
- (2) In this section:

Aboriginal Housing Company means the Aboriginal Housing Company (ACN 001 154 481) incorporated under the *Corporations Act 2001* of the Commonwealth.

the Block means the area of land bounded by Eveleigh, Caroline, Louis and Vine Streets, Redfern.

Part 5 Finance

34 Redfern-Waterloo Fund

- (1) There is to be established in the Special Deposits Account a Redfern-Waterloo Fund (the **Fund**) into which is to be paid:
 - (a) all money advanced to the Authority by the Treasurer or appropriated by Parliament for the purposes of the Authority, and
 - (b) all money directed or authorised to be paid into the Fund by or under this or any other Act, and
 - (c) the proceeds of the investment of money in the Fund, and
 - (d) all money received by the Authority from any other source.
- (2) The Fund is to be applied for the purpose of enabling the Authority to exercise its functions.
- (3) All expenditure incurred by the Authority is to be paid from the Fund.

35 Financial year

- (1) The financial year of the Authority is the year commencing on 1 July.
- (2) A different financial year may be determined by the Treasurer under section 4 (1A) of the [Public Finance and Audit Act 1983](#).

36 Investment of money in Fund

The Authority may invest money in the Redfern-Waterloo Fund:

- (a) in the manner authorised by the [Public Authorities \(Financial Arrangements\) Act 1987](#),
or
- (b) if that Act does not confer power on the Authority to invest the money, in any other manner approved by the Minister with the concurrence of the Treasurer.

37 Administration of other funds

- (1) The Authority may administer a fund established for the provision of services or facilities within the operational area into which money is paid by persons who carry on business within the operational area.
- (2) The Auditor-General is to audit any such fund, in the year it is established and in each year thereafter, as if the Minister had requested the Auditor-General to do so under section 45 of the [Public Finance and Audit Act 1983](#).

Part 6 Miscellaneous

38 Annual report to include certain matters

The annual report of the Authority required to be prepared under the *Annual Reports (Statutory Bodies) Act 1984* is to include a report as to the outcomes achieved by the Authority during the reporting period.

39 Authorised officers

- (1) The Authority may appoint a member of staff of the Authority, or a person of a class prescribed by the regulations, to be an authorised officer for the purposes of this Act.
- (2) An authorised officer may exercise such functions as are conferred on an authorised officer by this Act or the regulations.
- (3) The Authority is to provide each authorised officer with an identification card.
- (4) An identification card is a card that:
 - (a) states that it is issued under this Act, and
 - (b) gives the name of the person to whom it is issued, and
 - (c) describes the nature of the powers conferred, and
 - (d) states the date (if any) on which it expires, and
 - (e) is signed by the Chief Executive Officer.
- (5) In the course of exercising the functions of an authorised officer under this Act, the authorised officer must, if requested to do so by a person affected by the exercise of any such function, produce the authorised officer's identification card to the person.

40 Disclosure of information

A person must not disclose any information obtained in connection with the administration or execution of this Act (or any other Act conferring or imposing functions on the Authority) unless that disclosure is made:

- (a) with the consent of the person from whom the information was obtained, or
- (b) in connection with the administration or execution of this Act (or any such other Act),
or
- (c) for the purposes of any legal proceedings arising out of this Act (or any such other Act) or of any report of any such proceedings, or
- (d) in accordance with a requirement imposed under the *Ombudsman Act 1974*, or

(e) with other lawful excuse.

Maximum penalty: 100 penalty units.

41 Misuse of information

(1) If, through association with the Authority, a person has knowledge of specific information relating to proposals made, or to be made, by the Authority in respect of the acquisition, development or disposal of land and that information is not generally known but, if generally known, might reasonably be expected to affect materially the market price of that land, the person contravenes this subsection if the person:

- (a) deals, directly or indirectly, in that or in any other land for the purpose of gaining an advantage for the person by the use of that information, or
- (b) divulges that information for the purpose of enabling another person to gain an advantage by using that information to deal, directly or indirectly, in that or in any other land.

Maximum penalty: 100 penalty units.

(2) If, through association with the Authority, a person is in a position to influence proposals made, or to be made, by the Authority in respect of the acquisition, development or disposal of land and does influence the proposals by securing the inclusion or alteration of any matter in, or the exclusion or omission of any matter from, the proposals, the person contravenes this subsection if:

- (a) the person does so for the purpose of gaining an advantage for the person, or
- (b) the person does so for the purpose of enabling another person to gain an advantage.

Maximum penalty: 100 penalty units.

(3) If:

- (a) a contravention of subsection (1) occurs and an advantage referred to in that subsection is gained from any dealing in land to which the contravention relates, or
- (b) a contravention of subsection (2) occurs and an advantage referred to in that subsection is gained from any dealing in land to which the contravention relates, being an advantage which would not have been gained if the proposals concerned had not been influenced,

any person who gained that advantage is, whether or not any person has been prosecuted for or convicted of an offence in respect of a contravention of subsection (1) or (2), liable to another person for the amount of any loss incurred by that other

person by reason of the gaining of that advantage.

- (4) If a loss referred to in subsection (3) is incurred by reason of an advantage gained from a dealing in land, the amount of the loss is the difference between the price at which the dealing was effected and:
 - (a) in the case of any dealing to which subsection (1) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would have been the market price of the land at the time of the dealing if the specific information used to gain that advantage had been generally known at that time, or
 - (b) in any case to which subsection (2) relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would have been the market price of the land at the time of the dealing if the proposals concerned had not been influenced.
- (5) An action to recover a loss referred to in subsection (3) may not be brought more than 5 years after the dealing in land in relation to which the loss was incurred.
- (6) For the purposes of this section, a person is associated with the Authority:
 - (a) if the person is a member of the Board, or a member of staff of the Authority, or a person of whose services the Authority makes use, or who is otherwise appointed, employed or engaged, pursuant to this Act, or
 - (b) if the person is a committee member of an advisory committee, or
 - (c) if the person is an officer of the Department within the meaning of the [Environmental Planning and Assessment Act 1979](#) or a person who is a member of a committee or subcommittee established by or under that Act, or
 - (d) if the person is an officer or an employee of a council, or
 - (e) if the person acts or has acted as banker, solicitor, auditor or professional adviser or in any other capacity for the Authority, the Minister, the Department of Infrastructure, Planning and Natural Resources or a council, or
 - (f) where the person, so associated by virtue of paragraph (e), is a corporation, if the person is a director, manager or secretary of the corporation.

42 Personal liability

A matter or thing done or omitted to be done by the Authority, the Board or a member of the Board, the Chief Executive Officer, a member of an advisory committee appointed under this Act, or a person acting under the direction of the Authority, the Board or the Chief Executive Officer does not, if the matter or thing was done or omitted in good faith for the purpose of executing this or any other Act, subject the member of the Board, the

Chief Executive Officer, the member of the advisory committee or the person so acting personally to any action, liability, claim or demand.

43 Seal of Authority

The seal of the Authority is to be kept by the Chief Executive Officer, or by a member of the staff of the Authority authorised in that behalf by the Chief Executive Officer, and may be fixed to a document only:

- (a) in the presence of the Chief Executive Officer or that member of the staff, and
- (b) with an attestation by the signature of the Chief Executive Officer or that member of staff of the fact of the fixing of the seal.

44 Recovery of money

Any charge, fee or money due or payable to the Authority may be recovered as a debt in a court of competent jurisdiction.

45 Act to bind Crown

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.

46 Proceedings for offences

Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court.

47 Penalty notices

- (1) An authorised officer appointed under section 39 may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of penalty prescribed by the regulations for the offence if dealt with under this section.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.

- (6) The regulations may:
 - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
 - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
 - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (7) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

48 Amendment of Schedule 1

- (1) The regulations may amend Schedule 1:
 - (a) by omitting any matter, or
 - (b) by inserting any matter, or
 - (c) by altering any matter.
- (2) The regulations may omit Schedule 1 and insert instead a Schedule that specifies or describes an area of land as the operational area.
- (3) A regulation is not to be made under this section if it would result in an overall increase to the operational area of more than 5 per cent of the area specified in Schedule 1 on the date of assent to this Act.

49 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, regulations may be made for or with respect to the following:
 - (a) the functions of the Authority and any member of staff of the Authority,
 - (b) the fees and charges that may be imposed for the purposes of this Act,
 - (c) the procedures of advisory committees,
 - (d) regulating the use by the public of, and the conduct of the public on, land vested in or managed by the Authority or public areas within the operational area,

- (e) regulating the use of facilities of the Authority and the provision of services by the Authority,
- (f) requiring the payment of fares or other charges for the use of any facility operated or service provided by the Authority,
- (g) authorising a person granted a lease, licence or other authority by the Authority to require the payment of fares or other charges for the use of any facility operated or service provided under the lease, licence or other authority,
- (h) conferring on the Authority any function that may be exercised by a council in relation to a public place.

(3) The regulations may create an offence punishable by a maximum penalty of 50 penalty units.

50 (Repealed)

51 Savings, transitional and other provisions

Schedule 4 has effect.

52 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Operational area of Authority

(Sections 5 (1) and 48)

Commencing at the junction of Botany Road and Bourke Street; and bounded thence by the latter street, north-easterly, O'Dea Avenue, generally easterly, the eastern side of South Dowling Street, northerly, Cleveland Street, generally westerly, City Road, generally south-westerly, Darlington Road, north-easterly, Golden Grove Street, south-easterly, Wilson Street, south-westerly, the north-eastern side of Iverys Lane, south-easterly, the south-western side of Leamington Lane, south-westerly, and Burren Street, south-easterly to the south-western prolongation of the north-western boundary of Lot A, DP 908862; by that prolongation and boundary, north-easterly, part of the generally western boundary of Lot 50, DP 1001467, generally southerly and part of the south-eastern boundary of Lot 1, DP 7752906 and its prolongation, south-westerly to, again, Burren Street; by that street, generally southerly, Swanson Street, easterly, Railway Parade and Henderson Road, generally north-easterly, Garden Street, generally northerly, Boundary Street, easterly, Regent Street, generally southerly and Botany Road, aforesaid, generally south-easterly to the point of commencement.

Alexandria Park Community School site—Lot 1, DP 733605, Lot 11, DP 615964, Lots 2 and 3, DP 69494, Lot 1 DP 74696, Lots A and B, DP 109038, City of Sydney, Parish of Alexandria, County of Cumberland.

Schedule 2 Members and procedure of Board

(Section 9 (5))

Part 1 General

1 Definitions

In this Schedule:

appointed member means a person who is appointed by the Minister as a member of the Board.

member means any member of the Board.

Part 2 Constitution

2 Terms of office of members

Subject to this Schedule 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.

3 Part-time appointments

Appointed members hold office as part-time members.

4 Remuneration

- (1) 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.
- (2) Despite subclause (1), a person is not entitled to be paid any remuneration as a member if the person is also a member of Parliament.

5 Vacancy in office of member

- (1) The office of an appointed member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause, or

- (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
- (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
- (g) becomes a mentally incapacitated person, or
- (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 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.

(2) The Minister may remove an appointed member from office at any time.

6 Filling of vacancy in office of appointed member

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.

7 Chairperson

(1) The Chairperson vacates office as Chairperson if he or she:

- (a) is removed from that office by the Minister under this clause, or
- (b) resigns that office by instrument in writing addressed to the Minister, or
- (c) ceases to be a member of the Board.

(2) The Minister may at any time remove the Chairperson from office as Chairperson.

8 Disclosure of pecuniary interests

(1) If:

- (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
- (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,

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.

(2) A disclosure by a member at a meeting of the Board that the member:

- (a) is a member, or is in the employment, of a specified company or other body, or

(b) is a partner, or is in the employment, of a specified person, or

(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) 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.

(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:

(a) be present during any deliberation of the Board with respect to the matter, or

(b) take part in any decision of the Board with respect to the matter.

(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:

(a) be present during any deliberation of the Board for the purpose of making the determination, or

(b) take part in the making by the Board of the determination.

(6) A contravention of this clause does not invalidate any decision of the Board.

9 Effect of certain other Acts

(1) Chapter 2 of the *Public Sector Employment and Management Act 2002* does not apply to or in respect of the appointment of an appointed member.

(2) If by or under any Act provision is made:

(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

(b) prohibiting the person from engaging in employment outside the duties of that office,

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.

Part 3 Procedure

10 General procedure

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.

11 Quorum

The quorum for a meeting of the Board is a majority of its members for the time being.

12 Presiding member

- (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) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

13 Voting

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.

14 Transaction of business outside meetings or by telephone

- (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.
- (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 any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of:
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Board.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.

- (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.

15 First meeting

The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.

Schedule 3 (Repealed)

Schedule 4 Savings, transitional and other provisions

(Section 51)

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

 this Act

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on enactment of this Act

2 Definitions

In this Schedule:

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

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

rights means any rights, powers, privileges or immunities (whether present or future and whether vested or contingent).

3 Vesting of Australian Technology Park in Authority

- (1) On the commencement of this clause, the Australian Technology Park vests in the Authority for an estate in fee simple:
 - (a) without the need for any further conveyance, transfer, assignment or assurance, and
 - (b) subject to any trusts, estates, interests, dedications, conditions, restrictions and covenants to which the Park was subject immediately before that commencement.
- (2) On the vesting of the Australian Technology Park in the Authority by this clause, the following provisions have effect:
 - (a) the rights or liabilities of the Sydney Harbour Foreshore Authority in relation to the Park (including any rights held by that Authority in relation to the management of the Park or through its subsidiaries) become by virtue of this clause the rights or liabilities of the Authority,
 - (b) all proceedings relating to the Park commenced before the transfer by or against the Sydney Harbour Foreshore Authority or a predecessor of that Authority and pending immediately before the transfer are taken to be proceedings pending by or against the Authority,
 - (c) any act, matter or thing done or omitted to be done in relation to the Park before the transfer by, to or in respect of the Sydney Harbour Foreshore Authority is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Authority.
- (3) No compensation is payable to any person or body in connection with the operation of this clause.
- (4) The operation of this clause is not to be regarded:
 - (a) as a breach of contract or confidence or otherwise as a civil wrong, or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
 - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (5) The operation of this clause is not to be regarded as an event of default under any contract or other instrument.

- (6) No attornment to the transferee by a lessee from the Sydney Harbour Foreshore Authority is required.
- (7) In this clause, **Australian Technology Park** means Lot 50, DP 859192, City of Sydney, Parish of Alexandria and Parish of Petersham, County of Cumberland.
- (8) Any dispute arising under this clause between the Authority and the Sydney Harbour Foreshore Authority may be resolved by agreement between the Minister and the Minister administering the *Sydney Harbour Foreshore Authority Act 1998* or, if agreement cannot be reached, by the Premier.
- (9) A Minister or public authority must comply with any direction arising out of the resolution of a dispute under this clause and for that purpose is empowered to do so, despite the provisions of this or any other Act.

4 Transfer duty

Duty under the *Duties Act 1997* is not chargeable for or in respect of:

- (a) a transfer effected by or under this Schedule, or
- (b) anything certified by the Minister as having been done in consequence of such a transfer (for example, the transfer or conveyance of an interest in land).