

# Western City and Aerotropolis Authority Act 2018 No 53

[2018-53]



New South Wales

## Status Information

### Currency of version

Historical version for 5 October 2018 to 9 November 2018 (accessed 17 July 2024 at 23:21)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

Some, but not all, of the provisions displayed in this version of the legislation have commenced.

### Notes—

- **Does not include amendments by**  
Sec 27 of this Act (sec 27 amends sec 19 on the commencement of Div 6.4 of the [Government Sector Finance Act 2018](#))
- **Note**  
Amending provisions are subject to automatic repeal pursuant to sec 30C of the [Interpretation Act 1987 No 15](#) once the amendments have taken effect.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 9 November 2018

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# Western City and Aerotropolis Authority Act 2018 No 53



New South Wales

An Act to constitute and confer functions on the Western City and Aerotropolis Authority; and for related purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Western City and Aerotropolis Authority Act 2018*.

### 2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).
- (2) Section 27 commences, or is taken to have commenced, on the commencement of Division 6.4 of the *Government Sector Finance Act 2018*.

### 3 Object of Act

The object of this Act is to encourage the economic growth and development of the Western Sydney Aerotropolis and the rest of the Western City, in particular:

- (a) by creating active, vibrant and sustainable communities and locations that:
  - (i) support national and global business, and
  - (ii) support, and benefit from, the development of the Western Sydney Airport, and
- (b) by supporting the creation of precincts that are focused on job intensive land uses and which include knowledge, industrial, educational, commercial, retail and mixed use precincts, and
- (c) by promoting investment, and
- (d) by promoting development that accords with best practice environmental and planning standards, is environmentally sustainable and applies innovative environmental building and public domain design, and

- (e) by facilitating the sharing of financial value arising from, or associated with, the development of the operational area so as to offset the provision of public infrastructure, facilities, places and services, and
- (f) by promoting the attainment of value for money and efficiency in the delivery of infrastructure, and
- (g) by achieving optimal outcomes from the Authority working collaboratively with the Commonwealth and State governments and with local councils in the Western City.

#### 4 Definitions

(1) In this Act:

**Authority** means the Western City and Aerotropolis Authority constituted by this Act.

**Board** means the Board of the Authority.

**Chairperson** means the Chairperson of the Board.

**Commonwealth Minister** means the Commonwealth Minister nominated by the Commonwealth as the responsible Minister for the Commonwealth for the purposes of this Act.

**development** has the same meaning as in the Planning Act.

**Note—**

Development includes the subdivision of land.

**function** includes a power, authority or duty, and **exercise** a function includes perform a duty.

**operational area** means:

- (a) the Western Sydney Aerotropolis, and
- (b) any other area within the Western City that is specified in Schedule 2 (Western City operational areas) or 3 (Local council requested operational areas).

**Planning Act** means the [Environmental Planning and Assessment Act 1979](#).

**Western City** means the area comprising the following local government areas:

- (a) Blue Mountains,
- (b) Camden,
- (c) Campbelltown,
- (d) Fairfield,

- (e) Hawkesbury,
- (f) Liverpool,
- (g) Penrith,
- (h) Wollondilly.

**Western Sydney Aerotropolis** means the area identified as the Western Sydney Aerotropolis on the map in Schedule 1.

**Western Sydney Airport** means the land comprising the Sydney West Airport as determined in accordance with the [Airports Act 1996](#) of the Commonwealth and the regulations under that Act.

**Note—**

The [Interpretation Act 1987](#) contains definitions and other provisions that affect the interpretation and application of this Act.

- (2) Notes included in this Act do not form part of this Act.

## **5 Amendment of operational area**

- (1) The regulations may amend Schedule 1 to replace the map in that Schedule so as to extend or reduce the area comprising the Western Sydney Aerotropolis.
- (2) The regulations may amend Schedule 2:
  - (a) by inserting the description of any area, or a map of any area, within the Western City, and
  - (b) by amending or omitting the description or map of any area specified in Schedule 2.
- (3) A council for a local government area in the Western City may, by notice in writing to the Minister, request a specified area of land in the local government area to be included as part of the operational area.
- (4) The regulations may amend Schedule 3:
  - (a) by inserting the description of any area, or a map of any area, specified by a local council under subsection (3), and
  - (b) by amending or omitting the description or map of any area specified in Schedule 3.
- (5) Before any amendment is made to Schedule 1, 2 or 3, the Minister is to take all reasonable steps to consult with the Commonwealth Minister.

## **Part 2 Constitution and management of Authority**

### **6 Constitution of Authority**

- (1) There is constituted by this Act a corporation with the corporate name of the Western City and Aerotropolis Authority.
- (2) The Authority is a NSW Government agency.

**Note—**

See section 13A of the [Interpretation Act 1987](#) in relation to the status, privileges and immunities of statutory bodies declared to be NSW Government agencies.

### **7 Ministerial control**

- (1) The Authority is subject to the control and direction of the Minister in the exercise of its functions.
- (2) Before giving a direction to the Authority that the Minister considers would have a material effect on the exercise of the Authority's functions, the Minister is to take all reasonable steps to consult with the Commonwealth Minister.

### **8 Board of Authority**

- (1) There is to be a Board of the Authority.
- (2) The Board is to consist of the following members appointed by the Minister:
  - (a) a person appointed as the Chairperson of the Board,
  - (b) 3 persons nominated by the Minister,
  - (c) 3 persons nominated by the Commonwealth Minister.
- (3) If the Commonwealth Minister declines to nominate one or more persons for appointment by the Minister, the Minister may appoint a person or persons nominated by the Minister instead of a person or persons nominated by the Commonwealth Minister.
- (4) The appointment by the Minister of a person as the Chairperson requires the concurrence of the Commonwealth Minister.
- (5) Each member of the Board is to be a person who, in the opinion of the relevant Minister nominating the person for appointment, has the relevant skills, knowledge and experience to assist the Authority in exercising its functions.
- (6) Schedule 4 contains provisions relating to the members and procedure of the Board.

## **9 Role of Board**

- (1) Any decision relating to the functions of the Authority is to be made by or under the authority of the Board.
- (2) Any act, matter or thing done in the name of, or on behalf of, the Authority by or under the authority of the Board is taken to have been done by the Authority.

## **10 Committees**

- (1) The Board may, with the approval of the Minister, establish committees to give advice or assistance to the Board in connection with any particular matter or function of the Authority (including in relation to any particular part of the operational area of the Authority).
- (2) The Board is not to appoint a person as a member of a committee established under subsection (1) unless the Board is of the opinion that the person has appropriate expertise to make a valuable contribution to the committee.
- (3) In appointing persons as members of a committee, the Board is to have regard to an appropriate mix of skills, knowledge and experience.
- (4) It does not matter that any or all of the members of a committee of the Board are not members of the Board.
- (5) The procedure for the calling of meetings of a committee of the Board and for the conduct of business at those meetings is to be as determined by the Board or (subject to any determination of the Board) by the committee.

## **11 Chief Executive Officer**

- (1) The Chief Executive Officer of the Authority is the person who, having regard to any advice of the Chairperson, is employed in the Public Service as the Chief Executive Officer of the Authority.
- (2) The Chief Executive Officer is responsible for the day-to-day management of the activities of the Authority in accordance with the specific policies and general directions of the Board.
- (3) The Chief Executive Officer is entitled to attend and to participate in discussions at meetings of the Board but is not entitled to vote at those meetings.

## **12 Staff**

Persons may be employed in the Public Service under the [Government Sector Employment Act 2013](#) to enable the Authority to exercise its functions.

### **Note—**

Section 59 of the [Government Sector Employment Act 2013](#) provides that the persons so employed (or whose



services the Authority makes use of) may be referred to as officers or employees, or members of staff, of the Authority. Section 47A of the [Constitution Act 1902](#) precludes the Authority from employing staff.

## Part 3 Functions of Authority

### 13 Functions—generally

- (1) The Authority has the following functions in, or in relation to land in, the operational area:
  - (a) to prepare master plans for development within precincts, including identifying priorities relating to the design and location of that development,
  - (b) to carry out development on its own behalf or on behalf of other persons or bodies,
  - (c) to participate in the planning, funding, prioritisation and co-ordination of public infrastructure that is provided in association with the carrying out of development within precincts,
  - (d) to co-ordinate, secure and attract investment,
  - (e) to develop and, if directed by the Minister, implement schemes for funding the provision of public infrastructure, facilities, places and services,
  - (f) to promote, organise, manage, provide and conduct cultural, educational, commercial, transport, tourist and recreational activities and facilities,
  - (g) to provide consultancy and other services relating to the carrying out of development,
  - (h) to enter into joint ventures, project delivery agreements and other arrangements with landowners, developers, State and Commonwealth government agencies and local councils in the Western City,
  - (i) to liaise and work collaboratively with State and Commonwealth government agencies and with local councils in the Western City in exercising its functions.
- (2) The Authority has such other functions as are conferred or imposed on it by or under this or any other Act.

**Note—**

See for example section 50 of the [Interpretation Act 1987](#) which, among other things, authorises the Authority to deal with land. The Authority may also enter into voluntary planning agreements with developers under Part 7 of the Planning Act.

- (3) Without limiting subsection (2), the Authority may exercise functions delegated to it under any other Act.
- (4) The Authority cannot exercise any of its functions in relation to the Western Sydney

Airport.

#### **14 Charter**

- (1) The Authority is to have a charter, prepared by the Board and approved by the Minister, that identifies:
  - (a) the projects or other matters that are to be given priority by the Authority in exercising its functions, and
  - (b) the classes of decisions that are to be referred to the Minister before being made by the Authority.
- (2) The Authority's charter may be amended with the Minister's approval.
- (3) Before approving the charter or an amendment to the charter that the Minister considers would have a material effect on the exercise of the Authority's functions, the Minister is to take all reasonable steps to consult with the Commonwealth Minister.
- (4) This section does not limit the operation of section 7.

#### **15 Provision of information, advice and reports**

- (1) The Authority is:
  - (a) to provide the Minister with information, advice and reports at the request of the Minister, and
  - (b) if requested to do so by a person approved by the Minister, to provide the person with any information relating to its activities that the person requests, but only if the information is of a class approved by the Minister, and
  - (c) to keep the Minister and the Commonwealth Minister informed of the general conduct of its activities and of any significant development in its activities.
- (2) Any information provided by the Authority to a person under subsection (1) (b) must also be provided to the Minister.

#### **16 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 person (or a person of a class) approved by the Minister or prescribed by the regulations.

### **17 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 18.
- (2) A 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.

### **18 Private subsidiary corporations**

- (1) The Authority may, subject to subsection (2):
  - (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.
- (2) 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.
- (3) A private subsidiary corporation is not, and does not represent, the Crown.
- (4) 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.

## Part 4 Miscellaneous

### 19 Western City Fund

- (1) There is to be established in the Special Deposits Account a Western City Fund (the **Fund**) into which the following is to be paid:
  - (a) money advanced to the Authority by the Treasurer or appropriated by Parliament for the purposes of the Authority,
  - (b) money directed or authorised to be paid into the Fund by or under this or any other Act,
  - (c) the proceeds of the investment of money in the Fund,
  - (d) money received by the Authority from any other source (including commercial returns from land dealings or from any funding scheme implemented by the Authority).
- (2) There is to be paid from the Fund:
  - (a) all amounts required to meet expenditure incurred by the Authority, and
  - (b) all amounts required to be paid by the Authority in accordance with any funding scheme implemented by the Authority, and
  - (c) all other payments required by or under this or any other Act to be paid from the Fund.
- (3) The Fund is to be administered by the Authority.
- (4) The Authority may invest money in the Fund:
  - (a) in such manner as may be authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
  - (b) if that Act does not confer power to invest money held by the Authority, in any other manner approved by the Minister with the concurrence of the Treasurer.

### 20 Commonwealth Minister may withdraw from Act

- (1) The Commonwealth Minister may, by notice in writing to the Minister (a **withdrawal notice**), inform the Minister that the Commonwealth Minister has decided to withdraw from exercising a function of the Commonwealth Minister under this Act that is specified in the withdrawal notice.
- (2) The withdrawal notice must indicate the date on which the Commonwealth Minister's decision is to take effect (the **withdrawal date**).
- (3) The withdrawal date must not be earlier than 3 months after the withdrawal notice is

given.

- (4) On and from the withdrawal date, the function specified in the withdrawal notice is no longer conferred on the Commonwealth Minister.
- (5) If the function requires the Commonwealth Minister to nominate persons for appointment as members of the Board, the function may be exercised instead by the Minister administering this Act.
- (6) If the function requires the Commonwealth Minister to give concurrence, that concurrence is no longer required.
- (7) More than one of the functions of the Commonwealth Minister under this Act may be specified in the withdrawal notice.

## **21 Exclusion of personal liability**

- (1) A matter or thing done or omitted to be done by:
  - (a) a member of the Board, or
  - (b) a member of a committee of the Board, or
  - (c) a member of staff of the Authority, or
  - (d) a person acting under the direction of any person referred to in paragraphs (a)–(c),

does not, if the matter or thing was done or omitted to be done in good faith for the purposes of executing this Act, subject any such member or person so acting personally to any action, liability, claim or demand.

- (2) A reference in subsection (1) to the execution of this Act includes a reference to the execution of the provisions of any other Act that confer or impose functions on the Authority.

## **22 Disclosure of information**

A person must not disclose any information obtained in connection with the administration or execution of this Act 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
- (c) for the purposes of any legal proceedings arising out of this 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: 20 penalty units.

### **23 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: 20 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: 20 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, a member of a committee of the Board, 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, under this Act, or
  - (b) if the person is an officer or employee of a local council, or
  - (c) if the person acts or has acted as banker, Australian legal practitioner, auditor or professional adviser or in any other capacity for the Authority, the Minister or a local council, or
  - (d) in the case where the person associated by virtue of paragraph (c) is a corporation—if the person is a director, manager or secretary of that corporation.

## **24 Nature of proceedings for offences**

Proceedings for an offence under this Act may be dealt with summarily before the Local Court.

## **25 Service of documents**

- (1) A document may be served on the Authority by any of the following methods:
  - (a) by post to the address specified by the Authority for the service of documents of that kind,
  - (b) by post to an office of the Authority or by leaving it at any such office with a

person apparently over the age of 16 years,

(c) by email to an email address specified by the Authority for the service of documents of that kind,

(d) by any other method authorised by the regulations for the service of documents of that kind.

(2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on a person or the Authority by any other method.

(3) In this section, **serve** includes give or send.

## **26 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, the regulations may prescribe additional matters that must be included in the annual report of the Authority.

(3) The regulations may also contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.

(4) A provision of a savings or transitional nature may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.

(5) To the extent to which a provision of a savings or transitional nature takes effect from a date that is earlier than the date of its publication on the NSW legislation website, 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.

## **27 Amendment of this Act consequent on commencement of Division 6.4 of [Government Sector Finance Act 2018](#)**

**Section 19 Western City Fund** Omit section 19 (4). Insert instead:

(4) The Authority may invest money in the Fund:



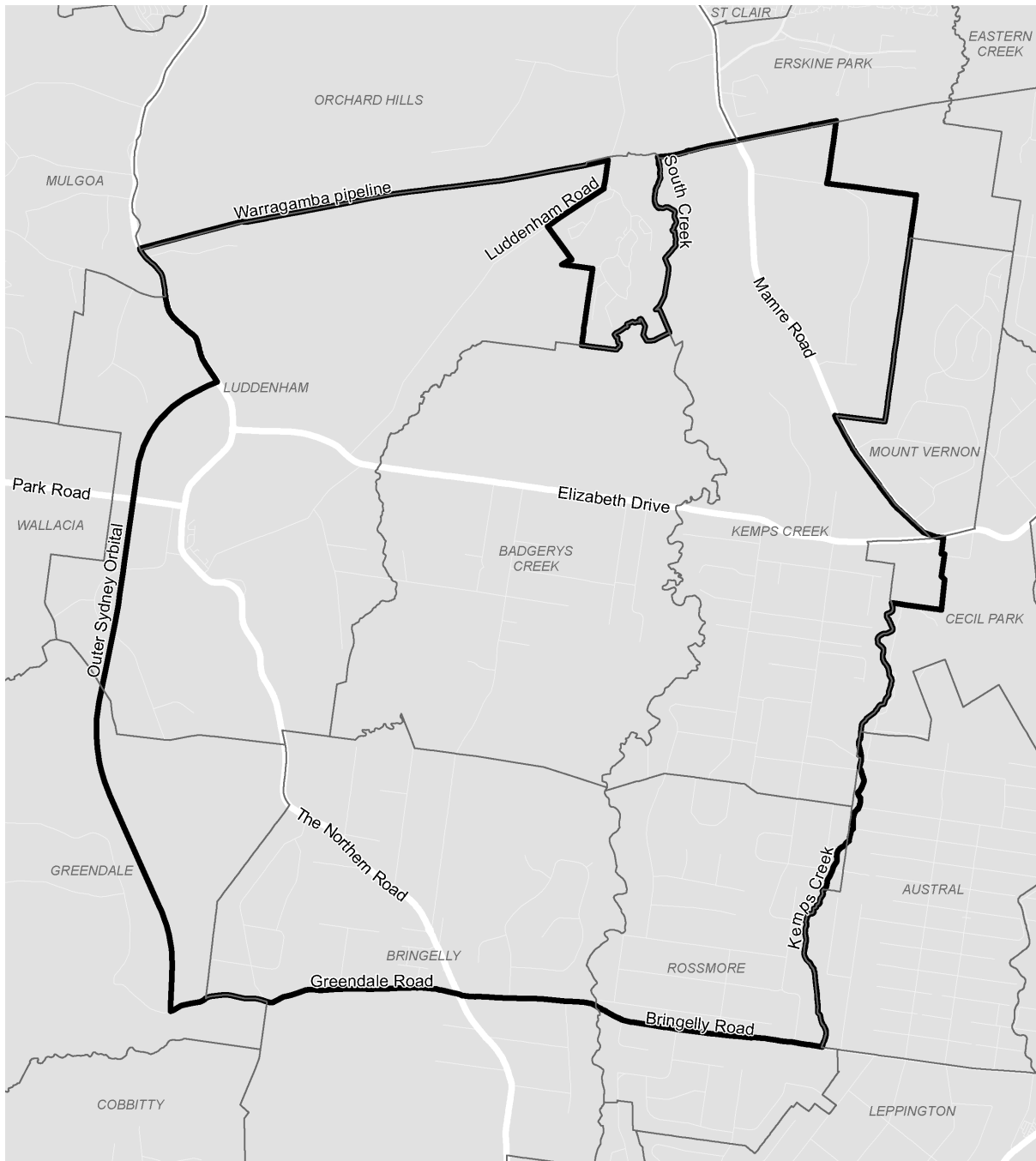
- (a) if the Authority is a GSF agency for the purposes of Part 6 of the *Government Sector Finance Act 2018*—in any way that the Authority is permitted to invest money under that Part, or
- (b) if the Authority is not a GSF agency for the purposes of Part 6 of the *Government Sector Finance Act 2018*—in any way approved by the Minister with the concurrence of the Treasurer.

**28 Consequential amendment of *Statutory and Other Offices Remuneration Act 1975* (1976 No 4)**



**Schedule 2 Public offices** Insert at the end of Part 1:

Full-time member of the Board of the Western City and Aerotropolis Authority

## Schedule 1 Western Sydney Aerotropolis



### Western Sydney Aerotropolis

-  Western Sydney Aerotropolis Boundary
-  Suburb Boundary



## Schedule 2 Western City operational areas

**Note—**

On the enactment of this Act, this Schedule did not include any areas.

## **Schedule 3 Local council requested operational areas**

### **Note—**

On the enactment of this Act, this Schedule did not include any areas.

## **Schedule 4 Members and procedure of Board**

(Section 8 (6))

### **1 Definitions**

In this Schedule:

**Commonwealth nominee** means a member of the Board who has been nominated:

- (a) by the Commonwealth Minister, or
- (b) by the Minister in accordance with section 8 (3).

**member** means any member of the Board.

### **2 Terms of office of members**

Subject to this Schedule and the regulations, a member holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

### **3 Basis on which members are appointed**

A member may be appointed on either a full-time or part-time basis.

### **4 Remuneration of members**

- (1) A member appointed on a full-time basis is entitled to be paid such remuneration (including travelling and subsistence allowances) as is determined by the Statutory and Other Offices Remuneration Tribunal.
- (2) A member appointed on a part-time basis 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.

### **5 Vacancy in office of member**

- (1) The office of a 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 a member from office at any time.
- (3) The removal by the Minister of the Chairperson or a Commonwealth nominee from office:
- (a) may be (but is not required to be) requested by the Commonwealth Minister, and
  - (b) requires the concurrence of the Commonwealth Minister.

## **6 Filling of vacancy in office of member**

If the office of a member becomes vacant, a person is, subject to this Act and the regulations, to be appointed to fill the vacancy.

## **7 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 that may arise after the date of the disclosure and that 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 document kept for the purpose and that document must be made available at all reasonable hours for 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.

(7) This clause applies to a member of a committee of the Board and the committee in the same way as it applies to a member of the Board and the Board.

## **8 Effect of certain other Acts**

(1) The provisions of the [Government Sector Employment Act 2013](#) relating to the employment of Public Service employees do not apply to a 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 a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

## **9 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.

## **10 Quorum**

The quorum for a meeting of the Board is 4 members.

## **11 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.

## **12 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.

## **13 Transaction of business outside meetings or by telephone etc**

- (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 made at a meeting 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 or other electronic 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 other 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 electronic means.

**14 First meeting**

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