

# Barangaroo Act 2009 No 2

[2009-2]



New South Wales

## Status Information

### Currency of version

Current version for 1 July 2019 to date (accessed 21 May 2024 at 5:55)

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

### Provisions in force

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

### Notes—

- **Previously named**  
Barangaroo Delivery Authority Act 2009

### Responsible Minister

- Minister for Lands and Property

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### 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 1 July 2022

# Barangaroo Act 2009 No 2



New South Wales

## Contents

**Long title** ..... 5

**Part 1 Preliminary** ..... 5

1 Name of Act ..... 5

2 Commencement ..... 5

3 Objects of Act ..... 5

4 Definitions ..... 5

5 Maps ..... 6

**Part 2 (Repealed)** ..... 7

**Part 3 Functions** ..... 7

**Division 1 Principal functions** ..... 7

14 Principal functions of Infrastructure NSW under this Act ..... 7

15 (Repealed) ..... 8

**Division 2 Ancillary functions** ..... 8

16 Acquisition of land ..... 8

17 Land dealings ..... 8

18 Restrictions on disposal of Barangaroo Reserve ..... 9

19 Dedication of land ..... 9

20 Roads ..... 10

21 Acquisition of property by gift, devise or bequest ..... 10

22 Dealings with certain property acquired by gift, devise or bequest ..... 10

23 (Repealed) .....	11
24 Regulation of Barangaroo Reserve and public domain .....	11
24A Ministerial approval and consent.....	12
<b>Part 4 Transfer of land</b> .....	12
<b>Division 1 (Repealed)</b> .....	12
<b>Division 2 Transfer of land by agreement</b> .....	12
29 Transfer of land or management of land of other public authorities.....	12
30 Transfer of maritime land .....	13
<b>Part 5 Contributions and finance</b> .....	14
<b>Division 1 Contributions to Barangaroo</b> .....	14
31 Definitions .....	14
32 Barangaroo contributions plan .....	14
33 Developer agreements subject to condition requiring payment of development contributions .....	15
34 Contributions provisions of other planning Acts not to apply .....	16
35 Application of planning agreement provisions of Environmental Planning and Assessment Act 1979 .....	16
<b>Division 2 Finance</b> .....	17
36 Barangaroo Fund .....	17
37 (Repealed) .....	17
38 Investment of money in Fund .....	17
<b>Part 6 Miscellaneous</b> .....	18
39 No duty payable in relation to agreements, vestings or transfers under Act.....	18
40, 41 (Repealed) .....	18
42 Disclosure of information.....	18
43 Misuse of information .....	18
44 Nature of proceedings for offences.....	20
45 Penalty notices .....	20
46, 47 (Repealed) .....	21
48 Recovery of money.....	21

49 Service of documents ..... 21

50 Regulations..... 21

51 Review of Act..... 22

**Schedules 1, 2 (Repealed) ..... 22**

**Schedule 3 Savings, transitional and other provisions ..... 22**

**Schedule 4 (Repealed) ..... 26**

# Barangaroo Act 2009 No 2



New South Wales

An Act relating to the development, use and management of Barangaroo.

## Part 1 Preliminary

### 1 Name of Act

This Act is the [Barangaroo Act 2009](#).

### 2 Commencement

This Act commences on the date of assent to this Act.

### 3 Objects of Act

The objects of this Act are as follows:

- (a) to encourage the development of Barangaroo as an active, vibrant and sustainable community and as a location for national and global business,
- (b) to create a high quality commercial and mixed use precinct connected to and supporting the economic development of Sydney,
- (c) to facilitate the establishment of Barangaroo Reserve and public domain land,
- (d) to promote the orderly and sustainable development of Barangaroo balancing social, economic and environmental outcomes,
- (e) to create in Barangaroo an opportunity for design excellence outcomes in architecture and public domain design.

### 4 Definitions

(1) In this Act:

**Barangaroo** means the land identified as the Barangaroo operational area on the [Barangaroo Operational Area Map](#).

**Barangaroo Reserve** means land identified as the Barangaroo Reserve on the [Barangaroo Reserve and Public Domain Map](#).

**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](#) and includes a project within the meaning of Part 3A of that Act and State significant infrastructure within the meaning of Part 5.1 of that Act.

**exercise** a function includes perform a duty.

**function** includes a power, authority or duty.

**Infrastructure NSW** means Infrastructure NSW constituted under the [Infrastructure NSW Act 2011](#).

**public domain** means:

- (a) land identified as public domain on the [Barangaroo Reserve and Public Domain Map](#), and
- (b) the public places (within the meaning of the [Local Government Act 1993](#)), other than the Barangaroo Reserve and the land referred to in paragraph (a), that are situated within Barangaroo and that are vested in or managed by Infrastructure NSW under this 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 Maps**

- (1) A reference in this Act to a named map is a reference to a map by that name:
  - (a) approved by the Minister on 26 February 2009, and
  - (b) as amended or replaced from time to time by maps declared in accordance with this section to amend or replace that map.
- (2) The declaration that a map amends or replaces a named map:
  - (a) in the case of a map that has the effect of altering the area of the Barangaroo Reserve—is to be made by the regulations, and
  - (b) in any other case—is to be made by proclamation.
- (3) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Act to any such named map is a reference to the relevant part or aspect of the single map.
- (4) Any such maps are to be kept and made available for public access in accordance

with arrangements approved by the Minister.

- (5) For the purposes of this Act, a map may be in, and may be kept and made available in, electronic or paper form, or both.

**Note—**

The maps adopted by this Act are to be made available on the official NSW legislation website in connection with this Act.

## **Part 2**

### **secs 6-13 (Repealed)**

## **Part 3 Functions**

### **Division 1 Principal functions**

#### **14 Principal functions of Infrastructure NSW under this Act**

- (1) Infrastructure NSW has the following functions under this Act:
- (a) to promote, procure, facilitate and manage the orderly and economic development and use of Barangaroo, including the provision and management of infrastructure,
  - (b) to promote, procure, organise, manage, undertake, secure, provide and conduct cultural, educational, residential, commercial, transport, tourist and recreational activities and facilities at Barangaroo,
  - (c) to develop and manage the Barangaroo Reserve and public domain so as to encourage its use by the public and to regulate the use of those areas,
  - (d) to facilitate and provide for appropriate commercial activities within the Barangaroo Reserve and public domain that are consistent with their use for cultural, educational and recreational activities and the use and enjoyment of those areas by the public,
  - (e) to promote development within Barangaroo that accords with best practice environmental and town planning standards, is environmentally sustainable and applies innovative environmental building and public domain design,
  - (f) to liaise with Government agencies with respect to the co-ordination and provision of infrastructure associated with Barangaroo,
  - (g) to undertake the delivery of infrastructure associated with Barangaroo or that relates to the principal functions under this Act of Infrastructure NSW.
- (2) (Repealed)

- (3) Infrastructure NSW is not limited to exercising its functions under this Act on or in relation to land within Barangaroo.
- (4) Infrastructure NSW may only exercise its functions under this Act with respect to land outside Barangaroo with the approval of the Minister.

## **15 (Repealed)**

## **Division 2 Ancillary functions**

### **16 Acquisition of land**

- (1) Infrastructure NSW 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 Infrastructure NSW 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.

### **17 Land dealings**

- (1) Infrastructure NSW has no power to sell or exchange the whole or any part of any land vested in Infrastructure NSW under this Act (other than the Barangaroo Reserve), or to otherwise dispose of the fee simple estate in that land, except by way of surrender to the Crown.
- (2) However, Infrastructure NSW may, with the consent of the Minister and subject to such conditions as the Minister thinks fit, mortgage, lease or otherwise dispose of an interest (other than the fee simple) in land vested in Infrastructure NSW under this Act (other than the Barangaroo Reserve) and grant easements or rights-of-way over land vested in Infrastructure NSW or any part of it.
- (3) This section does not require Infrastructure NSW 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 10 years.
- (4) Infrastructure NSW must establish and maintain a public register of all land that is, from time to time, vested in or managed by Infrastructure NSW under this Act.
- (5) A lease or licence granted under this section must not have a term that, together with the term of any further lease or licence that may be granted under an option in respect of it, exceeds 99 years.



## **18 Restrictions on disposal of Barangaroo Reserve**

- (1) Infrastructure NSW has no power to sell or exchange the whole or any part of the Barangaroo Reserve, or to otherwise dispose of the fee simple estate in that land, except by way of surrender to the Crown.
- (2) However, Infrastructure NSW may, with the consent of the Minister and subject to such conditions as the Minister thinks fit, lease, mortgage or otherwise dispose of an interest (other than the fee simple) in the Barangaroo Reserve or affect or create an estate or interest in the Barangaroo Reserve.
- (3) This section does not require Infrastructure NSW 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 10 years.
- (4) A lease or licence granted under this section must not have a term that, together with the term of any further lease or licence that may be granted under an option in respect of it, exceeds 99 years.

## **19 Dedication of land**

- (1) Infrastructure NSW 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 Land Management Act 2016](#), 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) Infrastructure NSW 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) Infrastructure NSW may, by notification published in the Gazette, declare any elevated or subterranean structure owned by Infrastructure NSW 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.

## **20 Roads**

- (1) A road that is within Barangaroo 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 Infrastructure NSW.
- (2) Except as provided by subsection (1), this Part does not affect the application of the [Roads Act 1993](#) or any other Act to a road that is within Barangaroo.
- (3) Infrastructure NSW is a roads authority for the purposes of the [Roads Act 1993](#) in respect of the public roads vested in it.

## **21 Acquisition of property by gift, devise or bequest**

- (1) Infrastructure NSW 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 Infrastructure NSW 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 Infrastructure NSW.

## **22 Dealings with certain property acquired by gift, devise or bequest**

- (1) Infrastructure NSW 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 Infrastructure NSW has agreed under section 21 (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 Infrastructure NSW decides that any property that has been acquired by Infrastructure NSW subject to a condition to which Infrastructure NSW has agreed under section 21 (1) is not required for the purposes of Infrastructure NSW, Infrastructure NSW may:
  - (a) sell the property and retain the proceeds of the sale as property of Infrastructure NSW, or
  - (b) exchange the property for other property, or
  - (c) if Infrastructure NSW 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) Infrastructure NSW 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.

## **23 (Repealed)**

## **24 Regulation of Barangaroo Reserve and public domain**

- (1) Infrastructure NSW may enter into an agreement with Place Management NSW for the exercise by Place Management NSW of its regulatory powers under the [Place Management NSW Act 1998](#) and the regulations under that Act in respect of any land within Barangaroo Reserve and the public domain.
- (2) An agreement under this section may, but is not required to, make provision for the following matters:
  - (a) the payment by Infrastructure NSW of fees to Place Management NSW,
  - (b) the payment to Infrastructure NSW of fees or other charges collected by Place Management NSW when exercising functions under the agreement,
  - (c) the provision of information to Infrastructure NSW by Place Management NSW relating to the exercise of its functions with respect to the land covered by the agreement,
  - (d) additional services to be provided by or on behalf of Place Management NSW in respect of the land covered by the agreement,
  - (e) conditions for the exercise of regulatory powers by Place Management NSW.
- (3) Subsection (2) does not limit the matters that may be included in an agreement under this section.
- (4) Land that is subject to an agreement under this section is taken to be managed land for the purposes of the [Place Management NSW Act 1998](#) and land within a public area for the purposes of the regulations under that Act.
- (5) Section 22 (Roads) of the [Place Management NSW Act 1998](#) does not apply to land the subject of an agreement under this section.
- (6) Any dispute arising under an agreement under this section between Infrastructure NSW and Place Management NSW may be resolved by the Minister.

- (7) Infrastructure NSW and Place Management NSW must comply with any direction arising out of the resolution of any such dispute and for that purpose is empowered to do so, despite the provisions of this or any other Act.

#### **24A Ministerial approval and consent**

The approval or consent of the Minister under this Division may be given generally or be limited to a particular case or class of cases and may be withdrawn at any time.

### **Part 4 Transfer of land**

#### **Division 1**

**secs 25-28 (Repealed)**

#### **Division 2 Transfer of land by agreement**

##### **29 Transfer of land or management of land of other public authorities**

- (1) If the Minister for a public authority that owns land within Barangaroo 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 Infrastructure NSW, subject to the terms and conditions agreed to between the Minister for the public authority and the Minister administering this Act.
- (2) The Minister administering the [Crown Land Management Act 2016](#) may transfer to Infrastructure NSW, subject to the terms and conditions agreed to between that Minister and the Minister administering this Act, Crown land within Barangaroo or the management of any such Crown land.
- (3) Division 5.3 of the [Crown Land Management Act 2016](#) does not apply to any such transfer of Crown land.
- (4) 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.
- (5) A public authority whose land is managed by Infrastructure NSW under an agreement with the public authority may delegate its functions in respect of the land to Infrastructure NSW, despite the provisions of any other Act.
- (6) In this section:

**Crown land** has the same meaning that it has in the [Crown Land Management Act](#)

2016, but does not include Crown managed land within the meaning of that Act.

**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** means a public authority constituted by or under an Act, and includes:

- (a) a Public Service agency, and
- (b) a statutory body representing the Crown, a State owned corporation within the meaning of the *State Owned Corporations Act 1989* and a subsidiary (within the meaning of that Act), and
- (c) a member of staff or other person who exercises functions on behalf of a public authority,

but does not include a council.

**transfer** of land includes the sale, lease, exchange or other disposal of or dealing with Crown land or the grant of easements or rights-of-way over, or licences or permits in respect of, Crown land.

- (7) Any dispute arising under this section between the Minister administering this Act and the Minister for a public authority or the Minister administering the *Crown Land Management Act 2016* may be resolved by the Premier.
- (8) 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.

### 30 Transfer of maritime land

- (1) Infrastructure NSW must transfer to the Maritime Authority of NSW (the **Maritime Authority**) any land below the mean high water mark that is within Barangaroo on the commencement of the operation of a commuter ferry wharf at Barangaroo or at such other time as may be agreed between the Minister responsible for the Maritime Authority and the Minister administering this Act. The transfer is to be subject to such terms and conditions as may be agreed to by those Ministers.
- (2) Any dispute arising under this section between the Minister responsible for the Maritime Authority and the Minister administering this Act may be resolved by the Premier.
- (3) A Minister, Infrastructure NSW or the Maritime 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.

(4) Nothing in this section affects the functions of Infrastructure NSW with respect to land.

(5) This section has effect despite sections 17 and 18.

## **Part 5 Contributions and finance**

### **Division 1 Contributions to Barangaroo**

#### **31 Definitions**

In this Division:

**Barangaroo contributions plan** means the Barangaroo contributions plan prepared and approved under section 32.

**development contribution** means an amount of levy payable under the Barangaroo contributions plan.

**development contributions provisions**—see section 34 (2).

**planning agreement**—see section 35 (4).

#### **32 Barangaroo contributions plan**

(1) Infrastructure NSW must prepare and approve a Barangaroo contributions plan.

(2) The Barangaroo contributions plan has no effect unless it is approved by the Minister.

(3) The Barangaroo contributions plan must provide for the following:

- (a) the payment of a levy of 1% to Infrastructure NSW on development, calculated in respect of the cost of development of land,
- (b) the development within Barangaroo to which the levy will apply,
- (c) the manner in which the cost of development is to be calculated,
- (d) the purposes for which a development contribution may be used, including the provision of local, State and regional infrastructure on or associated with the development of Barangaroo (whether or not situated within Barangaroo),
- (e) the proposed timing for delivery of infrastructure for which development contributions are to be used.

(4) Infrastructure NSW may amend or replace the Barangaroo contributions plan.

(5) An amendment to, or replacement of, the Barangaroo contributions plan has no effect

unless it is approved by the Minister.

- (6) The regulations may make provision for or with respect to the preparation, approval and amendment of the Barangaroo contributions plan, including the format, structure and subject-matter of the plan.

### **33 Developer agreements subject to condition requiring payment of development contributions**

- (1) A development agreement relating to development within Barangaroo for which a development contribution is payable under the Barangaroo contributions plan is subject to a condition that the development contribution must be paid to Infrastructure NSW in accordance with that plan.
- (2) A failure by a party to a development agreement to pay the whole or any part of a development contribution in accordance with the Barangaroo contributions plan is taken to be a breach of that agreement and is enforceable as such.
- (3) A development agreement may provide for the provision of works in kind or the dedication of land instead of the payment of the whole or part of a development contribution.
- (4) For the purposes of subsection (2), a party to a development agreement is not in breach of that agreement if:
- (a) the party fails to provide the whole or part of a development contribution, and
  - (b) the party has entered into an agreement, in accordance with subsection (3), to provide works in kind or to dedicate land instead of paying the whole or that part of the development contribution.
- (5) A development agreement may contain provisions, not inconsistent with the Barangaroo contributions plan, as to the payment of a development contribution.
- (6) No contract or agreement entered into before or after the commencement of this section operates to annul, vary or exclude the provisions of this section.
- (7) This section has effect despite any other Act or law.
- (8) In this section:

**development agreement** means an agreement between Infrastructure NSW and one or more other persons:

- (a) under which the person agrees to carry out development within Barangaroo (whether or not the agreement also relates to development outside Barangaroo), and
- (b) that may or may not provide for the disposal by Infrastructure NSW of an interest

in the land concerned, and

(c) that may be a planning agreement.

### **34 Contributions provisions of other planning Acts not to apply**

- (1) The development contributions provisions of the *Environmental Planning and Assessment Act 1979* and the *City of Sydney Act 1988* (the **planning Acts**) do not apply to or in respect of any development for which a development contribution is payable under the Barangaroo contributions plan.
- (2) The **development contributions provisions** of the planning Acts are the following provisions:
  - (a) Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979* (other than Subdivision 2),
  - (b) Part 5B (other than Division 4) of and Schedules 1 (other than Part 3) and 5A to the *Environmental Planning and Assessment Act 1979* (after the insertion of those provisions by Schedule 3 to the *Environmental Planning and Assessment Amendment Act 2008*),
  - (c) any provisions replacing or amending the provisions referred to in paragraph (a) or (b),
  - (d) section 61 of the *City of Sydney Act 1988*,
  - (e) any other provision of the planning Acts, relating to development contributions, prescribed by the regulations.

### **35 Application of planning agreement provisions of *Environmental Planning and Assessment Act 1979***

- (1) Infrastructure NSW is taken to be a planning authority for the purposes of the *Environmental Planning and Assessment Act 1979*.
- (2) A planning agreement entered into under the *Environmental Planning and Assessment Act 1979* may provide for the payment of the whole or part of a development contribution under this Division, or the provision of works in kind or the dedication of land instead of the payment of the whole or part of a development contribution under this Division, in addition to any other matters the agreement may provide for under that Act.
- (3) Any such planning agreement is not required to comply with the provisions of the *Environmental Planning and Assessment Act 1979* relating to the exclusion or otherwise of the development contributions provisions of that Act in relation to development referred to in section 34 (1).



(4) In this Division:

**planning agreement** means an agreement entered into under:

- (a) Subdivision 2 of Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979*, or
- (b) Division 4 of Part 5B of that Act (after its insertion by Schedule 3 to the *Environmental Planning and Assessment Amendment Act 2008*).

## Division 2 Finance

### 36 Barangaroo Fund

- (1) There is to be established in the Special Deposits Account a Barangaroo Fund (the **Fund**) into which is to be paid:
  - (a) all money advanced to Infrastructure NSW by the Treasurer for the purposes of this Act or appropriated by Parliament for the purposes of Infrastructure NSW in connection with exercising its functions under this Act, and
  - (b) all money directed or authorised to be paid into the Fund by or under this or any other Act, and
  - (c) development contributions or other payments made under Division 1, and
  - (d) the proceeds of the investment of money in the Fund, and
  - (e) all money received by Infrastructure NSW for the purposes of this Act from any other source.
- (2) Money may be paid from the Fund for the following purposes:
  - (a) enabling Infrastructure NSW to exercise its functions under this Act,
  - (b) the provision of infrastructure in Barangaroo by a public authority or council,
  - (c) payments in respect of liabilities transferred to Infrastructure NSW under Part 4.
- (3) All expenditure incurred by Infrastructure NSW under this Act is to be paid from the Fund.

### 37 (Repealed)

### 38 Investment of money in Fund

Infrastructure NSW may invest money in the Barangaroo Fund:

- (a) if Infrastructure NSW is a GSF agency for the purposes of Part 6 of the *Government Sector Finance Act 2018*—in any way that Infrastructure NSW is permitted to invest money under that Part, or

- (b) if Infrastructure NSW 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.

## **Part 6 Miscellaneous**

### **39 No duty payable in relation to agreements, vestings or transfers under Act**

Duty under the [Duties Act 1997](#) is not chargeable for or in respect of:

- (a) a vesting or transfer of land or other property effected under this Act or in accordance with arrangements entered into under this Act, or
- (b) anything certified by the Minister as having been done in consequence of such a vesting or transfer or under any such arrangements.

### **40, 41 (Repealed)**

### **42 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.

### **43 Misuse of information**

- (1) If, through association with Infrastructure NSW, a person has knowledge of specific information relating to proposals made, or to be made, by Infrastructure NSW 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 Infrastructure NSW, a person is in a position to influence proposals made, or to be made, by Infrastructure NSW 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 Infrastructure NSW:
  - (a) if the person is a member of the Board, or a member of staff of Infrastructure NSW, or a person of whose services Infrastructure NSW 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 employee 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, Australian legal practitioner, auditor or professional adviser or in any other capacity for Infrastructure NSW, the Minister, the Department of Planning and Environment 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.

#### **44 Nature of proceedings for offences**

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

#### **45 Penalty notices**

- (1) An authorised officer may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) The [Fines Act 1996](#) applies to a penalty notice issued under this section.

**Note—**

The [Fines Act 1996](#) provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.

- (4) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (5) 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.

- (6) In this section, **authorised officer** means a person authorised in writing by Infrastructure NSW as an authorised officer for the purposes of this section.

#### **46, 47 (Repealed)**

#### **48 Recovery of money**

Any charge, fee or money due or payable to Infrastructure NSW under this Act may be recovered as a debt in a court of competent jurisdiction.

#### **49 Service of documents**

- (1) A document that is authorised or required by this Act or the regulations to be served on any person may be served by:
- (a) in the case of a natural person:
    - (i) delivering it to the person personally, or
    - (ii) sending it by post to the address specified by the person for the giving or service of documents or, if no such address is specified, the residential or business address of the person last known to the person giving or serving the document, or
    - (iii) sending it by facsimile transmission to the facsimile number of the person or by email to the internet address of the person, or
  - (b) in the case of a body corporate:
    - (i) leaving it with a person apparently of or above the age of 16 years at, or by sending it by post to, the head office, a registered office or a principal office of the body corporate or to an address specified by the body corporate for the giving or service of documents, or
    - (ii) sending it by facsimile transmission to the facsimile number of the body corporate or by email to the internet address of the body corporate.
- (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 in any other manner.

#### **50 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 Infrastructure NSW under this Act,

- (b) the fees and charges that may be imposed for the purposes of this Act,
  - (c) (Repealed)
  - (d) regulating the use by the public of, and the conduct of the public on, land vested in or managed by Infrastructure NSW under this Act or public areas within Barangaroo,
  - (e) regulating the use of facilities of Infrastructure NSW and the provision of services by Infrastructure NSW,
  - (f) requiring the payment of fares or other charges for the use of any facility operated or service provided by Infrastructure NSW under this Act,
  - (g) authorising a person granted a lease, licence or other authority by Infrastructure NSW 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 Infrastructure NSW for the purposes of this Act 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 20 penalty units.

## **51 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.

## **Schedules 1, 2 (Repealed)**

## **Schedule 3 Savings, transitional and other provisions**

### **Part 1 General**

#### **1 Regulations**

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

## **Part 2 Provision consequent on enactment of this Act**

### **2 Regulation of Barangaroo Reserve and public domain**

- (1) This clause has effect in respect of land within the Barangaroo Reserve and public domain if an agreement under section 24 is not in force in relation to that land.
- (2) The Minister may, by order, determine the terms on which the Sydney Harbour Foreshore Authority is to exercise its regulatory powers under the [Sydney Harbour Foreshore Authority Act 1998](#) or regulations under that Act in respect of any land within the Barangaroo Reserve and public domain.
- (3) The Minister is to notify Infrastructure NSW and the Sydney Harbour Foreshore Authority in writing of a determination under this clause.
- (4) Section 24 applies to land that is subject to a determination under this clause as if it were subject to an agreement under that section.

## **Part 3 Provisions consequent on enactment of [State Revenue and Other Legislation Amendment Act 2019](#)**

### **Division 1 Dissolution of Barangaroo Delivery Authority**

#### **3 Definitions**

In this Division:

**assets** means any legal or equitable estate or interest (whether present or future, whether vested or contingent and whether personal or assignable) 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, whether vested or contingent and whether personal or assignable).

**rights** means any rights, powers, privileges or immunities (whether present or future,

whether vested or contingent and whether personal or assignable).

#### **4 Dissolution of Barangaroo Delivery Authority and transfer of assets etc**

- (1) The Barangaroo Delivery Authority is dissolved.
- (2) On its dissolution, the assets, rights and liabilities of the Barangaroo Delivery Authority are transferred to Infrastructure NSW.

#### **5 Subsequent transfer of specified assets, rights and liabilities**

- (1) The Minister may, by order in writing, transfer to a public sector agency any assets, rights and liabilities transferred to Infrastructure NSW under clause 4 that are specified or referred to in the order.
- (2) A transfer under this clause is subject to the terms and conditions of the order giving rise to the transfer.
- (3) The Minister may, by order in writing, specify the consideration on which a transfer under this clause is made and the value or values at which the assets, rights or liabilities are transferred.
- (4) No compensation is payable to any person or body in connection with a transfer under this clause except to the extent (if any) to which the order giving rise to the transfer so provides.
- (5) In this clause, **public sector agency** means any of the following:
  - (a) the State (including the Crown in right of the State),
  - (b) a Minister,
  - (c) a State owned corporation within the meaning of the [State Owned Corporations Act 1989](#),
  - (d) a public authority of the State,
  - (e) any other person acting on behalf of the State (or the Crown in right of the State).

#### **6 Provisions relating to transfers of assets, rights and liabilities**

- (1) In this clause, the person or body from which any assets, rights or liabilities are transferred is called the **transferor** and the person or body to which they are transferred is the **transferee**.
- (2) When any assets, rights or liabilities are transferred by or under this Division, the following provisions have effect:
  - (a) the assets of the transferor vest in the transferee by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance,



- (b) the rights or liabilities of the transferor become, by virtue of this clause, the rights or liabilities of the transferee,
  - (c) all proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the transferor or a predecessor of the transferor and pending immediately before the transfer are taken to be proceedings pending by or against the transferee,
  - (d) any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the transferor or a predecessor of the transferor 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 transferee,
  - (e) the transferee has all the entitlements and obligations of the transferor in relation to those assets, rights and liabilities that the transferor would have had but for the transfer, whether or not those entitlements and obligations were actual or potential at the time of the transfer,
  - (f) a reference in any Act, in any instrument made under any Act or in any document of any kind to the transferor or a predecessor of the transferor is (to the extent that it relates to those assets, rights or liabilities but subject to the regulations), to be read as, or as including, a reference to the transferee.
- (3) 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, or
  - (d) as an event of default under any contract or other instrument.
- (4) No attornment to the transferee by a lessee from the transferor is required.
- (5) Duty under the [Duties Act 1997](#) is not chargeable in respect of:
- (a) a transfer by or under this Division, or
  - (b) anything certified by the Treasurer as having been done in consequence of a transfer by or under this Division (for example, the transfer or conveyance of an interest in land).
- (6) The Minister may, by notice in writing, confirm a transfer by or under this Division of

particular assets, rights or liabilities. The notice is conclusive evidence of that transfer.

- (7) In this clause, **instrument** means an instrument (other than this Act) that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order or process of a court.

## **Division 2 Other provisions**

### **7 References to Barangaroo Delivery Authority**

- (1) A reference in any Act (other than this Act), in any instrument made under any Act or in any document of any kind to the Barangaroo Delivery Authority is to be construed as a reference to Infrastructure NSW.
- (2) Any act, matter or thing done or omitted to be done before the dissolution of the Barangaroo Delivery Authority by, to or in respect of the Barangaroo Delivery Authority is (to the extent that the act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of Infrastructure NSW.

### **8 Abolition of Board of Barangaroo Delivery Authority**

- (1) The Board of the Barangaroo Delivery Authority is abolished.
- (2) Each person holding office as a member of the Board of the Barangaroo Delivery Authority ceases to hold office as a member of the Board on its abolition and is not entitled to any remuneration or compensation for the loss of that office.

### **9 [Barangaroo Operational Area Map](#)**

The name of the [Barangaroo Delivery Authority Operational Area Map](#), as in force immediately before the commencement of this clause, is taken to have been changed to the [Barangaroo Operational Area Map](#).

## **Schedule 4 (Repealed)**