

## ***City of Fremantle and Town of East Fremantle Trust Funds (Amendment and Expiry) Bill 2013***

### **Overview of the Bill**

The *City of Fremantle and Town of East Fremantle Trust Funds (Amendment and Expiry) Bill 2013* provides for the:

- abolition of the Fremantle Fund and the East Fremantle Fund;
- transfer of the assets and liabilities, inclusive of any existing financial proceedings, agreements or instruments of the Fremantle Fund to the City of Fremantle;
- revesting of Reserve 34837 from the Fremantle Fund to the City of Fremantle;
- transfer of the assets and liabilities, inclusive of any existing financial proceedings, agreements or instruments of the East Fremantle Fund to the Town of East Fremantle; and
- registration of documents with the Registrar of Titles and the provision of final reports to the Minister for Local Government, prior to Ministerial notice of the expiry of the *City of Fremantle and Town of East Fremantle Trust Funds Act 1961*.

The Act was enacted to repeal two former tramways and lighting-related Acts and to dissolve the Fremantle Municipal Transport Board that had the vested construction, control and management of the undertakings of the repealed legislation.

Secondly, the Act constituted two Trust Funds (known as the Fremantle Fund and the East Fremantle Fund) as bodies corporate, and for the assets and liabilities of the dissolved Board transferred to them. The City of Fremantle and the Town of East Fremantle were appointed as Trustees of the respective Funds, as detailed in the Trust Funds Agreement contained in the Schedule of the Act.

The Act was implemented when it came into operation in November 1961, and the two local governments have managed their respective Funds as Trustees for the past 50 years.

Because the *Local Government Act 1995* provides the legislative framework for management of and reporting on local government assets, the Act's provisions are no longer required, rendering the Act obsolete.

- Clause 1 Sets out the short title of this Act.
- Clause 2 Provides for sections 1 and 2 of this Act to commence upon Royal Assent, and the rest of this Act on the 14<sup>th</sup> day after that.
- Clause 3 Provides that this Act will amend the *City of Fremantle and Town of East Fremantle Trust Funds Act 1961* (and for related purposes, including the expiry of the Act).
- Clause 4 Inserts the '**Part 1—Preliminary**' heading above section 1. (This formatting is required so that new Parts 2 and 3 may be inserted for purposes of uniform standards in written legislation.)
- Clause 5 Amends section 3 by deleting an obsolete definition, by inserting the definitions for the terms required in relation to the transfer of assets and liabilities, and by amending the affected definitions to reflect the past tense of the old, performed Agreement and for punctuation purposes.
- Clause 6 Inserts new **Part 2** and **Part 3** after section 3.

## **Part 2—Transitional provisions relating to Fremantle Fund and East Fremantle Fund**

This Part contains the transitional provisions for the assets and liabilities of the Funds to be transferred to the respective local governments, the revestment order of Reserve 34837, the final reports to be given to the Minister, and for the registration of documents.

### **Division 1—Fremantle Fund**

New section 4 provides for the Fremantle Fund to be abolished on transfer day.

New section 5 provides for the assets, rights and liabilities of the Fremantle Fund, existing before transfer day, to become the assets, rights and liabilities of the City of Fremantle on transfer day.

New section 6 provides that any proceedings commenced or continued, by or against the Fremantle Fund, on or after the transfer day, may be commenced or continued by the City of Fremantle.

New section 7 provides for the City of Fremantle to be the substitute party for the Fremantle Fund if the Fund was a party to any agreement or instrument that is in force, on or before the transfer day. A reference to the Fremantle Fund in any agreement or instrument is to be effectively a reference to the City of Fremantle.

New section 8 provides for a loan debenture agreement between the Fremantle Fund and the City of Fremantle, existing before transfer day, to cease to be in force on transfer day.

New section 9 provides for a revestment order of the care, control and management of Reserve 34837 from the Fremantle Fund to the City of Fremantle.

New section 10 provides for the City of Fremantle to prepare and give a final report on the Fremantle Fund to the Minister, listing the details of the assets and liabilities, any proceedings, agreements or instruments affected.

## **Division 2—East Fremantle Fund**

New section 11 provides for the East Fremantle Fund to be abolished on transfer day.

New section 12 provides for the assets, rights and liabilities of the East Fremantle Fund, existing before transfer day, to become the assets, rights and liabilities of the Town of East Fremantle on transfer day.

New section 13 provides that any proceedings commenced or continued, by or against the East Fremantle Fund, on or after the transfer day, may be commenced or continued by the Town of East Fremantle.

New section 14 provides for the Town of East Fremantle to be the substitute party for the East Fremantle Fund if the Fund was a party to any agreement or instrument that is in force, on or before the transfer day. A reference to the East Fremantle Fund in any agreement or instrument is to be effectively a reference to the Town of East Fremantle.

New section 15 provides for the Town of East Fremantle to prepare and give a final report on the East Fremantle Fund to the Minister, listing the details of the assets and liabilities, any proceedings, agreements or instruments affected.

## **Division 3—Miscellaneous**

New section 16 provides for the registration of documents by the Registrar of Titles.

### **Part 3—Expiry of Act**

This Part contains provisions for the expiry of the Act.

New section 17 provides for the Minister to publish a notice in the *Gazette* stating that the Act expires at the end of the day of the notice, after the Minister has received the final reports, and consulted with the two respective local governments and is reasonably satisfied that there is no reason for the Act to continue.

- Clause 7 Deletes sections 4 to 9 of the Act to remove obsolete provisions such as the repeal of former legislation that are no longer in operation, the dissolution of a former Board that no longer exists, and the constitution of the two Funds as bodies corporate and their related purposes which have been implemented.
- Clause 8 Deletes the Schedule containing the full text of the Trust Funds Agreement between the three parties: the former Board (dissolved), the City of Fremantle and the Town of East Fremantle.