

Midland Redevelopment Bill 1999

CONTENTS

Part 1 — Preliminary

1 .	Short title	2
2 .	Commencement	2
3 .	Interpretation	2
4 .	Redevelopment area defined	3
5 .	Transitional provisions where area amended	4

Part 2 — Midland Redevelopment Authority

Division 1 — Establishment of Authority

6 .	Authority established	6
7 .	Membership of Authority	6
8 .	Chairperson and deputy chairperson	7
9 .	Constitution and proceedings	7
10 .	Remuneration and expenses of members	7
11 .	Protection of members and officers	7
12 .	Particular functions of members	8

Division 2 — Staff

13 .	Chief executive officer	9
14 .	Staff and facilities	9
15 .	Consultants, etc.	10

Contents

16 .	Senior Executive Service	10
------	--------------------------	----

Part 3 — Functions and powers

17 .	Compliance with written laws	11
18 .	Authority exempt from rates, taxes, etc.	11
19 .	Functions	11
20 .	Powers	11
21 .	Further restrictions on exercise of power	13
22 .	Conditional disposal of land	14
23 .	Compulsory taking of land	15
24 .	Power of Governor to direct transfer to Authority	16
25 .	Temporary closure of streets	16
26 .	Permanent closure of streets	17
27 .	Delegation	17
28 .	Minister may give directions	18
29 .	Minister to have access to information	18

Part 4 — Redevelopment scheme

Division 1 — General

30 .	Authority to comply with redevelopment scheme	20
31 .	Contents of redevelopment scheme	20

**Division 2 — Preparation and approval of
redevelopment scheme**

32 .	Proposed redevelopment scheme	20
33 .	Proposed scheme to be publicly notified	22
34 .	Public submissions	23
35 .	Approval by Minister	23
36 .	Notice of approval	24

Division 3 — Amendment of redevelopment scheme

37 .	Amendment of redevelopment scheme	25
38 .	Saving	26

**Division 4 — Role of Environmental Protection
Authority in respect of redevelopment schemes, etc.**

39 .	Reference of proposed redevelopment schemes, and proposed amendments to redevelopment schemes, to Environmental Protection Authority	26
40 .	Prerequisite to submission of proposed redevelopment schemes, and proposed amendments to redevelopment schemes, to Minister for approval before public notification	26
41 .	Role of Authority in relation to environmental submissions	28
42 .	Prerequisite to final approval by Minister of proposed redevelopment schemes and proposed amendments to redevelopment schemes	28

Part 5 — Development control

43 .	Definition	30
44 .	Crown bound	30
45 .	Certain planning schemes cease to apply	30
46 .	Saving	31
47 .	Development to be approved	31
48 .	Applications for approval	31
49 .	Consultation with other authorities	32
50 .	Authority's decision	32
51 .	Referral of certain applications to Minister	33
52 .	Appeal	33
53 .	Liability of officers for offence committed by body corporate	34
54 .	Power to direct cessation or removal of unlawful development	35
55 .	Powers of Minister to ensure that environmental conditions are met	36
56 .	Compensation	38

Part 6 — Financial provisions

57 .	Funds of Authority	39
58 .	Investment	40
59 .	Borrowing by Authority from Treasurer	40
60 .	Borrowing by Authority generally	40
61 .	Guarantee by Treasurer	41
62 .	Charges for guarantees	42
63 .	Application of <i>Financial Administration and Audit Act 1985</i>	42
64 .	Surplus	42

Part 7 — General

65 .	Modification of other laws	43
66 .	Execution of documents by Authority	43
67 .	Regulations	44
68 .	Review of Act	44
69 .	Duration of Act	45

Part 8 — Amendment of various Acts

70 .	Amendment of <i>Constitution Acts Amendment Act 1899</i>	47
71 .	Amendment of <i>Environmental Protection Act 1986</i>	47
72 .	Amendment of <i>Financial Administration and Audit Act 1985</i>	49
73 .	Amendment of <i>Government Employees Superannuation Act 1987</i>	49
74 .	Amendment of <i>Metropolitan Region Town Planning Scheme Act 1959</i>	50
75 .	Amendment of <i>Public Sector Management Act 1994</i>	51
76 .	Amendment of <i>Statutory Corporations (Liability of Directors) Act 1996</i>	51
77 .	Amendment of <i>Swan River Trust Act 1988</i>	52

78 .	Amendment of <i>Town Planning and Development Act 1928</i>	52
------	--	----

Schedule 1 — Redevelopment area

Schedule 2 — Provisions as to constitution and proceedings of the Authority

1 .	Term of office	55
2 .	Resignation, removal, etc.	55
3 .	Temporary members	56
4 .	Resignation, etc., of deputy chairperson	56
5 .	Function of deputy chairperson	56
6 .	Meetings	57
7 .	Committees	57
8 .	Resolution may be passed without meeting	57
9 .	Leave of absence	58
10 .	Authority to determine own procedures	58

Defined Terms

Western Australia

LEGISLATIVE ASSEMBLY

Midland Redevelopment Bill 1999

A Bill for

An Act to provide for the development and redevelopment of certain land in the local government district of Swan, to establish the Midland Redevelopment Authority with planning, development control and other functions in respect of that land, and for related purposes.

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Midland Redevelopment Act 1999*.

2. Commencement

5 This Act comes into operation on a day fixed by proclamation.

3. Interpretation

In this Act, unless the contrary intention appears —

“**Account**” means the Midland Redevelopment Authority
Account referred to in section 57;

10 “**acquire**” includes take on lease;

“**Authority**” means the Midland Redevelopment Authority;

“**chairperson**” means the chairperson of the Authority;

“**committee**” means a committee established under clause 7 of
Schedule 2;

15 “**development**” has the same meaning as it has in the Town
Planning Act, but does not include any work, act or activity
declared by regulations made under section 67 not to
constitute development;

20 “**dispose of**” includes sell, lease, let, grant a licence and grant
any easement or right of way;

“**EPA**” means the Environmental Protection Authority
continued in existence under the EP Act;

“**EP Act**” means the *Environmental Protection Act 1986*;

25 “**interest in land**” includes an easement, right or power
affecting land;

“**land**” includes a legal or equitable estate or interest in land;

“**member**” means a member of the Authority and except in clauses 1, 2 and 3 of Schedule 2, includes a temporary member and a member of a committee;

5 “**Metropolitan Region Scheme**” has the same meaning as it has in the Metropolitan Scheme Act;

“**Metropolitan Scheme Act**” means the *Metropolitan Region Town Planning Scheme Act 1959*;

10 “**Minister for the Environment**” means the Minister to whom the Governor has for the time being committed the administration of the EP Act;

15 “**public authority**” means a Minister of the Crown in right of the State, Government department, State trading concern, State instrumentality, State public utility and any other person or body, whether corporate or not, who or which, under the authority of any written law, administers or carries on for the benefit of the State a social service or public utility;

“**PSM Act**” means the *Public Sector Management Act 1994*;

20 “**redevelopment area**” means the area referred to in section 4(1);

“**redevelopment scheme**” means a redevelopment scheme in force under Part 4;

“**temporary member**” means a person appointed under clause 3(1) of Schedule 2;

25 “**Town Planning Act**” means the *Town Planning and Development Act 1928*.

4. **Redevelopment area defined**

- (1) The redevelopment area for the purposes of this Act is the area referred to in Schedule 1.

s. 5

(2) Regulations may be made under section 67 amending Schedule 1 —

- (a) by adding to the redevelopment area any area that is contiguous to that area or by subtracting any area from the redevelopment area; or
- (b) by deleting the redevelopment area and substituting another area for it,

but before any such regulations are made the Minister is to consult with the Council of the Shire of Swan.

(3) When regulations made under subsection (2) that add an area to the redevelopment area are laid before each House of Parliament under section 42 of the *Interpretation Act 1984*, they are to be accompanied by an explanatory memorandum showing how and why it is intended to amend the redevelopment area in respect of the area that is added.

(4) Regulations made under subsection (2) may provide for the substitution of a plan for that referred to in Schedule 1, or for the amendment of the redevelopment area by reference to any supplementary plan.

(5) In any proceedings, a plan purporting to be a copy of a plan referred to in Schedule 1 or subsection (4) showing the boundaries or any boundary of the redevelopment area is evidence of those boundaries or that boundary.

5. Transitional provisions where area amended

(1) A redevelopment scheme does not extend to any area that becomes part of the redevelopment area under section 4(2) except by virtue of an amendment to the scheme under section 37.

- (2) On and after the day on which an area that is added to the redevelopment area under section 4(2) becomes subject to the redevelopment scheme, the planning schemes (as defined in section 45(3)) are repealed in relation to that area.
- 5 (3) If an area is subtracted from the redevelopment area under section 4(2)(a), the redevelopment scheme ceases to apply to that area.
- (4) Regulations referred to in section 4(2) may make further provisions of a transitional nature that are expedient to be made in respect of an amendment to Schedule 1 under that subsection including provision —
- 10 (a) empowering the Minister, if land is subtracted from the redevelopment area, to amend the Metropolitan Region Scheme or a relevant town planning scheme to provide for —
- 15 (i) the subtracted land to be included in the area to which any such scheme applies; and
- (ii) the land to have a reservation or zoning under those schemes the same as, or similar to, that which applied to it under the redevelopment scheme in force immediately before it was subtracted;
- 20 and
- (b) for the saving of rights existing at the time of the amendment, but subject to any provision of the redevelopment scheme relating to non-conforming uses.
- 25

Part 2 — Midland Redevelopment Authority

Division 1 — Establishment of Authority

6. Authority established

- 5 (1) A body by the name of the Midland Redevelopment Authority is established.
- (2) The Authority is a body corporate with perpetual succession and a common seal.
- (3) Proceedings may be taken by or against the Authority in its corporate name.
- 10 (4) The Authority is an agent of the Crown in right of the State and, except as provided in section 17, enjoys the status, immunities and privileges of the Crown.

7. Membership of Authority

- 15 (1) The Authority consists of 5 members appointed by the Minister of whom —
- (a) 3 are to be persons who, in the opinion of the Minister, have a relevant qualification; and
- (b) 2 are to be persons nominated by the council of the Shire of Swan who are members of the council of, or employees of, the Shire of Swan.
- 20 (2) In subsection (1) —
- “a relevant qualification” means knowledge of, and experience in, one or more of the fields of urban planning, business management, property development, financial management, engineering, transport, housing and community affairs.
- 25

(3) As far as is practicable, the membership of the Authority is to comprise persons who between them have knowledge or experience covering all the fields mentioned in subsection (2).

5 (4) The chief executive officer is not to be appointed as a member of the Authority.

8. Chairperson and deputy chairperson

(1) The Minister is to appoint one of the members appointed under section 7(1)(a) to be the chairperson of the Authority.

10 (2) The Minister is to appoint another member to be the deputy chairperson of the Authority.

9. Constitution and proceedings

The provisions of Schedule 2 have effect with respect to the constitution and proceedings of the Authority.

10. Remuneration and expenses of members

15 A member is to be paid out of the funds of the Authority the remuneration and travelling and other allowances that are determined in his or her case by the Minister on the recommendation of the Minister to whom the administration of the PSM Act is for the time being committed by the Governor.

20 **11. Protection of members and officers**

(1) A member or the chief executive officer of the Authority, or any person referred to in section 14 whose services are used by the Authority, is not personally liable for any act done or omitted to be done in good faith by the Authority or in the performance of
25 any function under this Act.

(2) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.

12. Particular functions of members

- 5 (1) If a matter is before a meeting for consideration and a member present at the meeting has a direct or indirect pecuniary interest in the matter, the member must disclose to the other members present at the meeting, as soon as possible after the relevant facts have come to his or her knowledge, that he or she has an interest, and —
- (a) the disclosure is to be recorded in the minutes of the meeting; and
- 10 (b) the member must not subsequently be present during any consideration or discussion of, and is not to vote on any determination of, the matter.
- (2) A member must not disclose any information acquired by virtue of the performance of any function unless the disclosure is made —
- 15 (a) in connection with the carrying out of this Act or under any legal duty;
- (b) for the purposes of any proceedings arising out of this Act or any report of those proceedings; or
- 20 (c) in the case of a member appointed under section 7(1)(b) who is a member of the council of the Shire of Swan —
- (i) in connection with the performance of his or her functions as a member of the council; and
- (ii) to a closed meeting, or a closed committee meeting, of the council.
- 25 (3) A member who commits a breach of any provision of this section —
- (a) is liable to the Authority for any profit made by him or her, or for any damage suffered by the Authority, as a result of the breach of that provision; and
- 30

(b) commits an offence against this Act and is liable to a fine of \$5 000.

5 (4) This section is in addition to and not in derogation of any other law relating to the duty or liability of the holder of a public office.

Division 2 — Staff

13. Chief executive officer

- (1) There is to be appointed under the PSM Act a chief executive officer of the Authority.
- 10 (2) The chief executive officer is to administer the day to day operations of the Authority.

14. Staff and facilities

- 15 (1) The Authority may by arrangement with the relevant employer make use, either full-time or part-time, of the services of any officer or employee —
- (a) in the Public Service;
 - (b) in a State agency or instrumentality; or
 - (c) otherwise in the service of the Crown in right of the State.
- 20 (2) The Authority may by arrangement with —
- (a) a department of the Public Service; or
 - (b) a State agency or instrumentality,
- make use of any facilities of the department, agency or instrumentality.
- 25 (3) An arrangement under subsection (1) or (2) is to be made on such terms as are agreed to by the parties.

15. Consultants, etc.

5 The Authority may engage, under a contract for services or other arrangement, any consultants and professional or technical or other assistance that it considers necessary to enable it to perform its functions.

16. Senior Executive Service

10 Despite anything in this division, if there is, in the case of the chief executive officer who is a member of the Senior Executive Service under the PSM Act, an inconsistency between this Act and that Act, that Act is to prevail.

Part 3 — Functions and powers

17. Compliance with written laws

5 Subject to sections 18 and 20(7), nothing in this Act is to be read as conferring on the Authority in the performance of its functions any immunity from the operation of any written law.

18. Authority exempt from rates, taxes, etc.

- 10 (1) Subject to subsection (2), the Authority is not liable to pay any local government rate or charge, land tax, metropolitan region improvement tax, water rate, pay-roll tax, stamp duty or other rate, tax, duty, fee or charge imposed by or under a written law.
- (2) Subsection (1) does not apply to the liability to pay any rate, charge, tax, duty or fee in respect of land held under a lease or tenancy agreement from the Authority.

19. Functions

15 The functions of the Authority are —

- (a) to plan, undertake, promote and coordinate the development and redevelopment of land in the redevelopment area; and
- (b) for that purpose —
- 20 (i) under Part 4, to prepare and keep under review a redevelopment scheme for that area; and
- (ii) under Part 5, to control developments in that area.

20. Powers

- 25 (1) The Authority may do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

s. 20

- (2) Without limiting the generality of subsection (1), the Authority may —
- 5 (a) acquire, hold, manage and dispose of land but, in the case of an acquisition or disposal of land that, in the opinion of the Authority, exceeds \$1 000 000 in value, only with the approval of the Minister and subject to any conditions attached to the approval;
- (b) subdivide, amalgamate, improve, develop and alter land;
- (c) subject to section 21(1) —
- 10 (i) participate in any business arrangement; or
- (ii) acquire, hold and dispose of shares, units or other interests in any business arrangement;
- and
- (d) subject to subsection (3), enter into any contract or arrangement with a person, including a public authority or a local government for the performance by that person or body of any work or the supply of equipment or services.
- 15
- (3) If the amount to be paid or received by the Authority under a contract or arrangement under subsection (2)(d) exceeds \$1 000 000, the Authority may enter into the contract or arrangement only with the approval of the Minister and subject to any conditions attached to the approval.
- 20
- (4) In performing its functions the Authority may act alone or in conjunction with any person or any department of the Public Service, or other agency or instrumentality, of the State or the Commonwealth.
- 25
- (5) In performing its functions the Authority is to have regard to, and is to seek to enhance and preserve, the heritage and significance of the redevelopment area and its adjacent areas.
- 30

- 5 (6) Despite anything in this section or in section 19, the Authority may pay for the carrying out of any work on land that is contiguous to the redevelopment area if the work is, in its opinion, directly related to the improvement of the redevelopment area or to the functions of the Authority.
- 10 (7) In exercising any power under this section the Authority is not required to comply with section 20 of the Town Planning Act but —
- 15 (a) anything that would otherwise require the approval of the Western Australian Planning Commission under that section may be done with the approval of the Minister and subject to any conditions attached to the approval;
- (b) before the Minister makes any decision required by paragraph (a) he or she is to seek the advice of the Western Australian Planning Commission and consider any advice offered; and
- 20 (c) if this section applies, section 21 of the Town Planning Act is to be read as if references to the Commission were references to the Minister.
- (8) In subsection (2)(c) —
- “business arrangement”** means a proprietary limited company, partnership, trust, joint venture or arrangement for sharing profits;
- 25 **“participate”** includes form, promote, establish, enter into, manage, dissolve, wind up and do anything incidental to the doing of any of those things.

21. Further restrictions on exercise of power

- 30 (1) Any power conferred by section 20(2)(c) is only exercisable with the approval of the Governor and subject to any conditions attached to the approval.

s. 22

(2) When the Minister gives any approval under section 20, other than under section 20(7)(a), or the Governor gives any approval under subsection (1), the text of that approval is to be laid before each House of Parliament within 28 sitting days of that House after the day on which the approval is given.

(3) The annual report submitted by the accountable authority of the Authority under section 66 of the *Financial Administration and Audit Act 1985* is to include a summary of any approval referred to in subsection (2).

22. Conditional disposal of land

(1) The Authority may attach any condition or restriction to a disposal of land under section 20(2)(a).

(2) Without limiting subsection (1), the Authority and a transferee may agree that the transferee —

- (a) is required to make specified improvements to land; or
- (b) is subject to restrictions on the disposal of or dealing with the land,

and the agreement may confer on the Authority rights and remedies against, and the power to impose sanctions on, the transferee in relation to the enforcement of any such condition or restriction.

(3) The Authority may deliver a memorial relating to a condition or restriction under this section to the Registrar who, on payment of the appropriate fee, is to register the memorial against the relevant land.

(4) A memorial under subsection (3) is to be in a form approved by the Registrar.

(5) While a memorial is registered under subsection (3), the Registrar is not to register under the *Transfer of Land Act 1893*,

without the consent in writing of the Authority, any instrument affecting the land to which the memorial relates.

5 (6) As soon as is practicable after the relevant land ceases to be subject to the condition or restriction to which a memorial relates, the Authority is to withdraw the memorial by notice in a form approved by the Registrar, and the Registrar is to cancel the memorial accordingly.

 (7) In this section —
 “Registrar” means Registrar of Titles.

10 **23. Compulsory taking of land**

 (1) Development or redevelopment of land under, and the carrying out of, this Act and any incidental work is a public work for the purposes of Parts 9 and 10 of the *Land Administration Act 1997* and the *Public Works Act 1902*, and, if necessary for any of
15 those purposes, the Authority is to be taken to be a local authority within the meaning of the *Public Works Act 1902*.

 (2) In applying Parts 9 and 10 of the *Land Administration Act 1997* and the *Public Works Act 1902* for the purposes of this section —

- 20 (a) **“land”** in those Acts has the same meaning as it has in section 3 of this Act;
- (b) sections 170, 171, 172, 173, 174, 175, and 184 of the *Land Administration Act 1997* do not apply; and
- 25 (c) sections 187, 188, 189, 190, and 191 of the *Land Administration Act 1997* do not apply to land in the redevelopment area taken or acquired under the *Public Works Act 1902* before the commencement of this Act.

s. 24

- (3) If land referred to in subsection (2)(c) is not required for the public work for which it was taken or acquired, the land may be held or used for some other purpose authorized by this Act.

24. Power of Governor to direct transfer to Authority

- 5 (1) The Governor may by order direct a public authority to transfer to the Authority all of the estate and interest over which the public authority has power of disposal in a piece of land specified in the order.
- 10 (2) The power in subsection (1) is only to be exercised in respect of land in the redevelopment area and if the Governor is satisfied that the land is required by the Authority for development or redevelopment under, or otherwise for the purposes of, this Act.
- (3) An order under subsection (1) is to specify the terms and conditions subject to which the transfer is to be made.
- 15 (4) A public authority is to comply with a direction given to it under subsection (1), despite any other written law.

25. Temporary closure of streets

- 20 (1) Despite any provision of the *Local Government Act 1995*, the Authority may close, or restrict the thoroughfare in, a street in the redevelopment area —
- (a) by causing fences and barriers to be placed on or across the street; or
- (b) in any other manner,
- 25 if, and for the period that, the Authority considers that the closure or restriction is necessary for the performance of its functions.
- (2) A street may be closed for more than 3 days under subsection (1) only if the Authority has given at least 14 days'

notice of the closure to the chief executive officer of the Shire of Swan.

(3) In this section and section 26 —

“**street**” means a thoroughfare as defined in the *Local Government Act 1995*.

26. Permanent closure of streets

A street in the redevelopment area may be closed under section 58 of the *Land Administration Act 1997* and regulations made under that Act, and for that purpose “**local government**” in that section and in those regulations —

- (a) includes the Authority; and
- (b) does not include the Shire of Swan,

in relation to any such street.

27. Delegation

(1) The Authority may by resolution, either generally or as otherwise provided by the resolution, delegate to an eligible person any of its functions under this Act other than this power of delegation.

(2) In subsection (1) —

“**eligible person**” means —

- (a) a member or the chief executive officer of the Authority;
- (b) the chief executive officer, or a nominee of the chief executive officer, of the department principally assisting the Minister to whom the administration of the Town Planning Act is committed in the administration of that Act;

s. 28

(c) a local government or a committee or employee of a local government.

(3) The Authority may by resolution revoke a delegation under subsection (1).

5 **28. Minister may give directions**

(1) The Minister may give directions in writing to the Authority with respect to the performance of its functions, either generally or in relation to a particular matter, and the Authority is to give effect to any such direction.

10 (2) The text of any direction given under subsection (1) is to be —

(a) laid before each House of Parliament within 28 sitting days of that House after the day on which the direction is given; and

15 (b) included in the annual report submitted by the accountable authority of the Authority under section 66 of the *Financial Administration and Audit Act 1985*.

(3) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.

29. Minister to have access to information

20 (1) The Minister is entitled to have information in the possession of the Authority and, if the information is in or on a document, to have, and make and retain copies of, that document.

(2) For the purposes of subsection (1) the Minister may —

25 (a) request the Authority to provide information to the Minister;

(b) request the Authority to give the Minister access to information; and

- (c) for the purposes of paragraph (b) make use of its staff to obtain the information and provide it to the Minister.
- 5 (3) The Authority is to comply with a request under subsection (2) and the Authority is to make its staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.
- (4) In this section —
- “document”** includes any tape, disc or other device or medium on which information is recorded or stored;
- 10 **“information”** means information specified, or of a description specified, by the Minister that relates to the functions of the Authority.

Part 4 — Redevelopment scheme

Division 1 — General

30. Authority to comply with redevelopment scheme

- 5 (1) The Authority is to perform its functions in accordance with the redevelopment scheme for the time being in force under this Part.
- (2) Subsection (1) does not affect the discretion conferred on the Authority by section 50(1).
- 10 (3) A copy of the redevelopment scheme for the time being in force is to be kept in the offices of the Authority and is to be available for inspection by the public during office hours free of charge.

31. Contents of redevelopment scheme

- 15 A redevelopment scheme may make any provision that the Authority considers will promote the orderly and proper planning, development and management of the redevelopment area, including any provision that may be made by a town planning scheme under the Town Planning Act.

Division 2 — Preparation and approval of redevelopment scheme

20 32. Proposed redevelopment scheme

- (1) The Authority is to submit a proposed redevelopment scheme to the Minister as soon as is practicable after the commencement of this Act.
- 25 (2) The Authority may, under subsection (1), submit a proposed redevelopment scheme in 2 or more stages, each one being

applicable to a part of the redevelopment area, and if it does so —

- (a) this Part applies to each stage separately; and
 - (b) a reference in this Act or another written law to a, or the,
5 redevelopment scheme may be read as a reference to a redevelopment scheme for part of the redevelopment area as provided for by this subsection.
- (3) A proposed redevelopment scheme is not to be submitted to the
10 Minister unless sections 39 and 40 have been complied with in respect of that redevelopment scheme and it was prepared —
 - (a) after consultation with the Shire of Swan and the Western Australian Planning Commission (whether that consultation occurred before or after the commencement of this Act); and
 - 15 (b) having regard to the views of the Shire of Swan and the Commission.
- (4) The Minister may —
 - (a) consent or refuse to consent to the public notification of a proposed redevelopment scheme submitted under this
20 section; or
 - (b) consent to such public notification subject to modifications being made to the scheme, as directed by the Minister.
- (5) If the Minister refuses to consent to the public notification of a
25 proposed redevelopment scheme submitted under this section, the Minister is to give directions to the Authority as to the preparation of a further scheme to be submitted under this section.
- (6) The Authority is to comply with any direction of the Minister
30 under subsection (4) or (5).

(7) The text of any direction given under subsection (4) or (5) is to be —

- (a) laid before each House of Parliament within 28 sitting days of that House after the day on which the direction is given; and
- (b) included in the annual report submitted by the accountable authority of the Authority under section 66 of the *Financial Administration and Audit Act 1985*.

33. Proposed scheme to be publicly notified

(1) Public notification of a proposed redevelopment scheme in respect of which the Minister has given consent under section 32(4) is to be given in accordance with subsection (2).

(2) The proposed redevelopment scheme is to be publicly notified by the Authority by the publication —

- (a) in the *Gazette*; and
- (b) in 2 issues of a daily newspaper circulating in the Shire of Swan,

of a notice —

- (c) specifying the places at which —
- (i) a copy of the scheme may be inspected; and
- (ii) copies of the scheme may be obtained;
- and
- (d) stating the effect of section 34 and specifying the period referred to in that section.

(3) The Authority may fix and charge a fee for supplying copies of a proposed redevelopment scheme.

(4) The Authority must, in addition to complying with subsection (2), make reasonable endeavours to consult in

respect of the proposed redevelopment scheme such public authorities and persons as appear to the Authority to be likely to be affected by that redevelopment scheme.

34. Public submissions

- 5 (1) Written submissions on the proposed redevelopment scheme may be made by any person —
- (a) within a period determined by the Authority that is not less than 60 days after the day on which the notice is published in the *Gazette*; and
- 10 (b) by delivering or posting them so that they are received within that period at the offices of the Authority.
- (2) The Authority may modify the proposed redevelopment scheme as it thinks fit to give effect to any submission so received by it.

35. Approval by Minister

- 15 (1) After sections 41 and 42 have been complied with, the Authority is to submit the proposed redevelopment scheme, with any modifications made under section 34(2), to the Minister for approval.
- (2) The scheme as so submitted is to be accompanied by —
- 20 (a) a summary of all submissions made under section 34; and
- (b) a report by the Authority on the merits of those submissions.
- (3) The Minister may —
- 25 (a) approve or refuse to approve the proposed redevelopment scheme; or
- (b) approve the scheme subject to modifications being made to the scheme, as directed by the Minister.

- 5 (4) If the Minister refuses to approve a proposed redevelopment scheme submitted under this section, the Minister is to give directions to the Authority as to the preparation of a further scheme to be submitted under section 32 or under subsection (1), as the Minister may specify.
- (5) The Authority is to comply with any direction of the Minister under subsection (3) or (4).
- (6) The text of any direction given under subsection (3) or (4) is to be —
- 10 (a) laid before each House of Parliament within 28 sitting days of that House after the day on which the direction is given; and
- (b) included in the annual report submitted by the accountable authority of the Authority under section 66 of the *Financial Administration and Audit Act 1985*.
- 15

36. Notice of approval

- (1) Notice that a redevelopment scheme has been approved by the Minister under section 35 is to be published by the Authority in the *Gazette* together with a note showing where a copy of the redevelopment scheme may be inspected or obtained.
- 20
- (2) A redevelopment scheme comes into operation on the day of publication in the *Gazette* of a notice under subsection (1), or on any later day that is specified in the scheme.
- (3) The Authority may fix and charge a fee for supplying copies of a redevelopment scheme.
- 25

Division 3 — Amendment of redevelopment scheme

37. Amendment of redevelopment scheme

- (1) A redevelopment scheme may be amended in accordance with this section.
- 5 (2) The Authority is to submit any proposed amendment to the Minister.
- (3) The following provisions apply for the purposes of this section, with all necessary changes —
- 10 (a) sections 32(3) and 32(4), 33 and 35, as if references in those sections to a, or the, proposed redevelopment scheme were references to the proposed amendment to the redevelopment scheme;
- 15 (b) section 32(5) and 32(6), as if, in section 32(5) —
- (i) the reference to a proposed redevelopment scheme were a reference to the proposed amendment to the redevelopment scheme;
- (ii) the reference to a further scheme were a reference to another amendment; and
- 20 (iii) the words “may give” were substituted for “is to give”;
- (c) section 34, as if the reference in that section —
- (i) to the proposed redevelopment scheme were a reference to a proposed amendment to the redevelopment scheme;
- 25 (ii) in subsection 34(1)(a), to the Authority were a reference to the Minister; and
- (iii) to 60 days were a reference to 42 days;
- and

- (d) section 36, as if references in that section to a redevelopment scheme were references to the amendment to a redevelopment scheme.

38. Saving

- 5 A development in respect of which an approval under section 50 is in force immediately before an amendment to a redevelopment scheme comes into force under section 37 may be lawfully carried out as if the amendment had not been made.

10 **Division 4 — Role of Environmental Protection Authority in
respect of redevelopment schemes, etc.**

**39. Reference of proposed redevelopment schemes, and
proposed amendments to redevelopment schemes, to
Environmental Protection Authority**

- 15 When the Authority resolves to prepare a redevelopment scheme, or an amendment to a redevelopment scheme, the Authority must forthwith refer the redevelopment scheme or amendment to the EPA by giving to the EPA —

- 20 (a) written notice of that resolution; and
(b) such written information about the redevelopment scheme or amendment as is sufficient to enable the EPA to comply with section 48A of the EP Act in relation to the redevelopment scheme or amendment.

**40. Prerequisite to submission of proposed redevelopment
schemes, and proposed amendments to redevelopment
schemes, to Minister for approval before public notification**

- 25 (1) When the EPA has acted under section 48C(1)(a) of the EP Act in relation to a proposed redevelopment scheme or a proposed amendment to a redevelopment scheme, the Authority must, if it

- 5 wishes to proceed with that redevelopment scheme or
amendment, undertake an environmental review of that
redevelopment scheme or amendment in accordance with the
relevant instructions issued under that section and must not
submit that redevelopment scheme or amendment to the
Minister for consent to public notification under section 32, or
section 37 as read with section 32, as the case requires, until —
- 10 (a) the Authority has forwarded that review to the EPA; and
(b) the EPA has advised that that review has been
undertaken in accordance with those instructions, or
30 days have elapsed since that forwarding without the
EPA having advised whether or not that review has been
undertaken in accordance with those instructions,
whichever first occurs.
- 15 (2) If the EPA has advised that the review has not been undertaken
in accordance with the relevant instructions issued under
section 48C(1)(a) of the EP Act, the Authority may —
- 20 (a) comply with subsection (1) in respect of the
redevelopment scheme or amendment concerned; or
(b) request the Minister to consult the Minister for the
Environment and, if possible, agree with him or her on
whether or not that review has been undertaken in
accordance with those instructions.
- 25 (3) If the Minister, having complied with a request under
subsection (2), and the Minister for the Environment —
- (a) agree on whether or not the review has been undertaken
in accordance with the relevant instructions, their
decision is to be final and without appeal; or
- (b) cannot so agree, section 48J of the EP Act applies.

41. Role of Authority in relation to environmental submissions

When the Authority has been informed under
section 48A(1)(b)(i) of the EP Act that the proposed
redevelopment scheme or amendment should be assessed by the
EPA under Division 3 of Part IV of the EP Act, the Authority
must —

- (a) as soon as practicable, but in any event within 7 days
after the expiry of the period referred to in
section 34(1)(a), or section 37 as read with
section 34(1)(a), as the case requires, transmit to the
EPA a copy of each submission —
 - (i) made under section 34, or under section 37 as
read with section 34, as the case requires; and
 - (ii) relating wholly or in part to environmental issues
raised by that redevelopment scheme or
amendment;

and

- (b) within 42 days, or such longer period as the Minister
allows, after the expiry of the period referred to in
section 34(1)(a), or section 37 as read with
section 34(1)(a), as the case requires, inform the EPA of
its views on and response to the environmental issues
raised by submissions referred to in paragraph (a) and
received within that period.

**42. Prerequisite to final approval by Minister of proposed
redevelopment schemes and proposed amendments to
redevelopment schemes**

The Minister is not to approve under section 35, or section 37 as
read with section 35, a proposed redevelopment scheme or
amendment referred to the EPA under section 39 if he or she

has reached agreement with the Minister for the Environment
under section 48A(2)(b) of the EP Act, or until —

- 5 (a) he or she is informed under section 48A(1)(a) of the
 EP Act that the EPA considers that that redevelopment
 scheme or amendment should not be assessed by the
 EPA under Division 3 of Part IV of the EP Act;
- 10 (b) he or she has received a statement delivered under
 section 48F(2), or a decision has been made under
 section 48J, of the EP Act in respect of the conditions, if
 any, to which that redevelopment scheme or amendment
 is subject; or
- (c) the period of 28 days referred to in section 48A(1)(b)(i)
 of the EP Act has expired without the EPA having
 informed the Authority under that section,

15 whichever first occurs, and he or she is satisfied that the
 conditions, if any, to which that redevelopment scheme or
 amendment is subject have been incorporated into that
 redevelopment scheme or amendment.

Part 5 — Development control

43. Definition

In this Part —

5 **“appointed day”** means the day on which a redevelopment scheme comes into operation under section 36(2).

44. Crown bound

This Part binds the Crown.

45. Certain planning schemes cease to apply

- 10 (1) On and after the appointed day, the planning schemes are repealed in relation to the redevelopment area so that they do not apply to a development that commences in that area on or after that day.
- 15 (2) Section 37 of the *Interpretation Act 1984* applies in respect of the repeal effected by subsection (1) as if the planning schemes were enactments within the meaning of that section.
- (3) In this section —
- “planning scheme”** means —
- 20 (a) any town planning scheme under the Town Planning Act that is in operation in the redevelopment area immediately before the appointed day; and
- (b) the Metropolitan Region Scheme.
- (4) Subsection (2) has effect subject to any provision of the redevelopment scheme relating to non-conforming uses.

46. Saving

- (1) This Part does not apply to a development that was lawfully being carried out in the redevelopment area immediately before the appointed day.
- 5 (2) A development referred to in subsection (1), or in respect of which all necessary approvals under the planning schemes referred to in section 45(3) were in force immediately before the appointed day —
- 10 (a) may be lawfully carried out as if this Part had not been passed; and
- (b) is to be governed by those schemes despite section 45(1).

47. Development to be approved

- 15 (1) A person must not undertake any development or cause any development to be undertaken on land that is in, or partly in, the redevelopment area without the approval of the Authority or in contravention of a condition attached to an approval.
Penalty: \$50 000, and a daily penalty of \$5 000.
- (2) The requirements of subsection (1) extend to the Authority.
- 20 (3) It is immaterial for the purposes of this Part that a development is undertaken in the performance of a function vested in a person by a written law.

48. Applications for approval

- 25 (1) An application for approval under section 47 is to be made to the Authority in the prescribed form with the prescribed fee.
- (2) An application is to be accompanied by plans and specifications of the proposed development, and an applicant is also to provide

s. 49

any information or documents relating to the proposed development that the Authority may reasonably require.

49. Consultation with other authorities

- 5 (1) The Authority is to refer, by notice in writing, particulars of the proposed development —
- (a) to each public authority that appears to it to have functions that are relevant to, or whose operations are likely to be affected by, the proposed development; and
- (b) to the Shire of Swan.
- 10 (2) The Shire of Swan and a public authority to which particulars are referred under subsection (1) may make submissions on the proposed development to the Authority.
- (3) The Authority is not to make a decision under section 50 on the proposed development until —
- 15 (a) the expiration of 30 days after all notices have been given as required by subsection (1); or
- (b) final submissions have been made to it by all authorities to which particulars were referred under that subsection,
- whichever is the sooner.

20 **50. Authority's decision**

- (1) The Authority may grant or refuse to grant approval of the proposed development having regard to —
- (a) the redevelopment scheme;
- (b) consultations under section 49;
- 25 (c) the requirements of orderly and proper planning; and
- (d) the preservation of the amenities of the area.

- (2) The Authority may attach to an approval any condition that is within the objects of this Act.
- (3) The Authority may limit the time for which an approval remains in force.
- 5 (4) An approval under this section is in addition to, and does not derogate from, the requirements of any other written law.
- (5) The Authority is to cause notice in writing of its decision to be given to the applicant, the Shire of Swan and each public authority to which notice was given under section 49(1)(a).

10 **51. Referral of certain applications to Minister**

- (1) If the Authority is the applicant, or has a financial interest in the subject-matter of an application by reason of its participation in a business arrangement, within the meaning in section 20(8), the Authority is to consider the application in accordance with
15 section 50(1) and refer the application and all relevant information to the Minister with a recommendation as to the decision to be made.
- (2) If an application is referred to the Minister under subsection (1) —
20 (a) the Minister is to perform the functions of the Authority under section 50; and
 (b) for the purpose of that section and sections 47 and 52, references to the Authority are to be read as references to the Minister.

25 **52. Appeal**

- (1) An applicant may appeal, in accordance with Part V of the Town Planning Act, from a decision of the Authority under section 50 in respect of the applicant's application.

s. 53

- (2) An appeal may be allowed with or without conditions, or further conditions may be attached, or the appeal may be rejected in whole or in part.

53. Liability of officers for offence committed by body corporate

- (1) If a body corporate is guilty of an offence against section 47 and it is proved that —

- (a) the offence was committed with the consent or connivance of an officer of the body corporate; or
(b) an officer of the body corporate failed to exercise all the due diligence to prevent the commission of the offence that ought to have been exercised having regard to the nature of the officer's functions and to all the circumstances,

the officer commits the offence.

- (2) In subsection (1) —

“officer”, in relation to a body corporate, means —

- (a) a director, secretary or executive officer of the body corporate;
(b) a receiver, or receiver and manager, of property of the body corporate, or any other authorized person who enters into possession or assumes control of property of the body corporate for the purpose of enforcing any charge;
(c) an official manager or a deputy official manager of the body corporate;
(d) a liquidator of the body corporate; and

- (e) a trustee or other person administering a compromise or arrangement made between the body corporate and another person or other persons,

5 and any other person, by whatever name called and whether or not a director of the body corporate, who is concerned, or takes part, in the management of the body corporate.

54. Power to direct cessation or removal of unlawful development

10 (1) The Authority may —

- (a) by notice in writing served on a person who is undertaking any development in contravention of section 47, direct the person to stop doing so immediately; or
- 15 (b) by notice in writing served on a person who has undertaken any development in contravention of that section, direct the person within a period not less than 21 days after the service of the notice, as is specified in the notice, to remove, pull down, take up, or alter any development undertaken in contravention of that
- 20 section,

or may by one notice give both directions to a person.

- (2) A person on whom a notice is served containing a direction under subsection (1)(b) may, within the period specified in the notice, appeal to the Minister against the direction, and on the
- 25 appeal the Minister may confirm, vary or cancel the direction.
- (3) A notice containing a direction under subsection (1)(b) is suspended as to that direction pending the determination of the appeal.

s. 55

(4) If the Minister confirms or varies the direction under subsection (2), the Minister may, by notice in writing served on the person, direct the person to comply with the direction as so confirmed or varied, within a period not less than 21 days after the service of the notice, as is specified in the notice.

(5) A person must comply with a notice given to the person under this section.

Penalty: \$50 000, and a daily penalty of \$5 000.

(6) If a person fails to comply with a notice given to the person under subsection (1)(b), the Authority may itself remove, pull down, take up or alter the development and may recover from the person in any court of competent jurisdiction the costs incurred by it in so doing.

55. Powers of Minister to ensure that environmental conditions are met

(1) In this section —

“assessed scheme” means a redevelopment scheme, or an amendment to a redevelopment scheme, that is an assessed scheme within the meaning of the EP Act;

“environmental condition” means a condition agreed under section 48F of the EP Act or decided under section 48J of the EP Act.

(2) After receiving advice from the Minister for the Environment under section 48H(4) of the EP Act the Minister may exercise one or more of the powers set out in subsection (3) in relation to a development implementing an assessed scheme.

- (3) For the purposes of subsection (2) the Minister may —
- (a) by order in writing served on the person who is undertaking the development, direct the person to stop doing so for such period, beginning immediately and lasting not more than 24 hours, as is specified in the order;
 - (b) cause the Authority to serve a notice on the person who is undertaking the development directing the person to take such steps as are specified in the notice, within such period as is so specified, for the purpose of —
 - (i) complying with; or
 - (ii) preventing any non-compliance with, the environmental condition to which the Minister for the Environment's advice relates; or
 - (c) advise the Authority to cause such steps to be taken as are necessary for the purpose of —
 - (i) complying with; or
 - (ii) preventing any non-compliance with, the environmental condition to which the Minister for the Environment's advice relates.
- (4) A person must comply with an order or notice served on the person under subsection (3)(a) or (b).
Penalty: \$50 000, and a daily penalty of \$5 000.
- (5) Nothing in this section prevents or otherwise affects the application of Part V of the EP Act to —
- (a) a development referred to in subsection (2); or
 - (b) pollution caused by any non-compliance with an environmental condition referred to in subsection (3).

s. 56

56. Compensation

- (1) Sections 11(1), (3) and (4) and 12 of the Town Planning Act apply with all necessary changes to land in the redevelopment area as if —
- 5 (a) the redevelopment scheme were a town planning scheme under that Act;
- (b) the Authority were a local government or a responsible authority under that Act; and
- 10 (c) in section 11(3) of that Act, the word “amended” were substituted for “altered or revoked by an order of the Minister under this Act”.
- (2) If under the redevelopment scheme any land is reserved, zoned or classified for a public purpose, Part V (other than sections 36A, 37 and 37A) of the Metropolitan Scheme Act
- 15 applies with all necessary changes as if —
- (a) the land were reserved for a public purpose under the Metropolitan Region Scheme;
- (b) references in that Part to the Commission and the Scheme were references to the Authority and to the redevelopment scheme respectively; and
- 20 (c) in section 36(1)(b) of that Act, “amended” were substituted for “varied, amplified or revoked by the Commission”.
- (3) Compensation is not payable under an Act as applied by subsection (1) or (2) if payment has been made for the same, or substantially the same, injurious affection under that Act as in operation otherwise than as applied by this section.
- 25 (4) If a claim for compensation has been made but not disposed of before the appointed day, and is one that might have been made under this section, the claim may be continued after the
- 30 appointed day as if it had been made under this section.

Part 6 — Financial provisions

57. Funds of Authority

- (1) The funds available for the purpose of enabling the Authority to perform its functions consist of —
- 5 (a) moneys from time to time appropriated by Parliament;
- (b) moneys received by the Authority from performing any of its functions;
- (c) moneys borrowed by the Authority under section 59 or 60;
- 10 (d) the proceeds of disposals of land by the Authority;
- (e) rents derived from land leased by the Authority;
- (f) income derived from the investment under section 58 of moneys standing to the credit of the Account; and
- 15 (g) any moneys otherwise lawfully received by, made available to or payable to the Authority.
- (2) The funds referred to in subsection (1) are to be credited to an account at a bank approved by the Treasurer to be called the “Midland Redevelopment Authority Account”.
- (3) There are to be charged against the moneys from time to time in the Account —
- 20 (a) interest on, fees payable in respect of and repayments of moneys borrowed by or advanced to the Authority under section 59 or 60;
- (b) the remuneration and travelling and other allowances payable to members and to the chief executive officer; and
- 25 (c) all other expenditure lawfully incurred by the Authority in the performance of its functions.

s. 58

58. Investment

- 5 (1) Moneys standing to the credit of the Account may, until required for the purposes of this Act, be temporarily invested as the Treasurer directs in any securities in which moneys standing to the credit of the Public Bank Account, as constituted under the *Financial Administration and Audit Act 1985*, may lawfully be invested.
- (2) Income derived from any such investment is to be credited to the Account.

10 **59. Borrowing by Authority from Treasurer**

- (1) The Authority may borrow from the Treasurer the amounts that the Treasurer approves on the conditions relating to repayment and payment of interest that the Treasurer imposes.
- 15 (2) By virtue of this subsection the Account and the assets of the Authority are charged with the due performance by the Authority of all obligations arising from any advance made under this section.

60. Borrowing by Authority generally

- 20 (1) This section is in addition to, and not in derogation from, the provisions of section 59.
- (2) The Authority may —
- 25 (a) with the prior approval of the Treasurer in writing and on the terms and conditions that the Treasurer approves, borrow moneys for the purpose of performing its functions; and
- (b) borrow moneys under this subsection on the guarantee of the Treasurer given under section 61.

- 5 (3) Any moneys borrowed by the Authority under subsection (2) may be raised as one loan or as several loans and in the manner that the Treasurer approves, but the amount of the moneys so borrowed is not in any one financial year to exceed in the aggregate the amount that the Treasurer approves.

61. Guarantee by Treasurer

- 10 (1) The Treasurer may, in the name and on behalf of the Crown in right of the State, guarantee, in the form and subject to the terms and conditions that the Treasurer determines, the payment of any moneys payable by the Authority in respect of moneys borrowed by it under section 60.
- (2) The due payment of moneys payable by the Treasurer under a guarantee given under subsection (1) —
- 15 (a) is guaranteed by the State; and
- (b) is to be made by the Treasurer and charged to the Consolidated Fund and this subsection appropriates that Fund accordingly.
- 20 (3) By virtue of this subsection the Account and the assets of the Authority are charged with the due repayment of any payment made by the Treasurer under a guarantee given under subsection (1) and with the performance and observance by the Authority of any covenants and conditions that the Treasurer imposes as a term of that guarantee.
- 25 (4) The Treasurer is to cause any amounts received or recovered from the Authority or otherwise in respect of any payment made by the Treasurer under a guarantee given under subsection (1) to be credited to the Consolidated Fund.
- (5) Before a guarantee is given by the Treasurer under subsection (1), the Authority is to give to the Treasurer the

s. 62

security that the Treasurer requires and is to execute all instruments that are necessary for the purpose.

- 5 (6) If a guarantee is given by the Treasurer under subsection (1), the Treasurer is to cause the text of the guarantee to be published in the *Gazette* within 28 days and laid before each House within 14 sitting days of being published.

62. Charges for guarantees

- 10 (1) The Treasurer may, after consulting the Authority, fix charges to be paid by the Authority to the Treasurer for the benefit of the Consolidated Fund in respect of a guarantee given under section 61.
- (2) Payment of any charges fixed under subsection (1) is to be made at such time or times as the Treasurer determines.

63. Application of *Financial Administration and Audit Act 1985*

- 15 The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Authority and its operations.

64. Surplus

- 20 Any surplus in the Account at the end of any financial year that is not reasonably required by the Authority for the purposes of this Act is to be paid by the Authority, in whole or in part as the Treasurer directs, to the credit of the Consolidated Fund.

Part 7 — General

65. Modification of other laws

Section 33 of the Town Planning Act applies with all necessary modifications for the purposes of carrying out a redevelopment scheme as if the reference in that section —

- 5 (a) to an approved scheme were a reference to that redevelopment scheme;
- (b) to the responsible authority were a reference to the Authority; and
- 10 (c) to an Act were a reference to a written law.

66. Execution of documents by Authority

- (1) A document is duly executed by the Authority, if —
 - (a) the common seal of the Authority is affixed to it in accordance with subsections (2), (3) and (4); or
 - 15 (b) it is signed on behalf of the Authority by persons authorized by the Authority to do so.
- (2) The common seal of the Authority is not to be affixed to any document except as authorized by the Authority.
- (3) Subject to subsection (4), the common seal of the Authority is to be affixed to a document in the presence of those persons, and that number of persons, determined by the Authority, and each of them is to sign the document to attest that the common seal was so affixed.
- 20 (4) At least one of the persons referred to in subsection (3) is to be a member of the Authority.
- 25 (5) A person authorized under subsection (1)(b), or determined under subsection (3), is to be a member or the chief executive officer of the Authority.

s. 67

(6) A document purporting to be executed in accordance with this section is to be presumed to be duly executed until the contrary is shown.

5 (7) When a document is produced bearing a seal purporting to be the common seal of the Authority, it is to be presumed that the seal is the common seal of the Authority until the contrary is shown.

(8) All courts and persons acting judicially are to take notice of the common seal of the Authority.

10 **67. Regulations**

(1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Act.

15 (2) Without limiting subsection (1), regulations may provide for —
(a) the procedure to be followed in applications for approval under Part 5; and
(b) the imposition and payment of fees and charges in connection with those applications.

20 **68. Review of Act**

(1) The Minister is to carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiration of 5 years from its commencement, and in the course of that review the Minister is to consider and have regard to —

25 (a) the effectiveness of the operations of the Authority;
(b) the need for the continuation of the functions of the Authority and for the continuation of this Act; and

(c) any other matters that appear to the Minister to be relevant to the operation and effectiveness of this Act.

5 (2) The Minister is to prepare a report based on the review made under subsection (1) and, as soon as is practicable after the report is prepared, cause it to be laid before each House of Parliament.

69. Duration of Act

(1) This Act, subject to this section, continues in operation until 31 December 2014 and no longer.

10 (2) On the expiry of this Act under subsection (1) —

- (a) all real and personal property and every right or interest that immediately before that expiry was vested in the Authority is without any transfer or assignment to pass to and become vested in the Minister;
- 15 (b) all rights, liabilities and obligations of the Authority that were in existence immediately before that expiry devolve on the Minister;
- (c) all contracts, agreements and undertakings made by and with the Authority and having effect immediately before that expiry have effect as contracts, agreements and undertakings made by and with the Minister and may be enforced by or against the Minister accordingly;
- 20 (d) any legal or other proceedings or any remedies that might, but for this section, have been commenced or continued or available by or against or to the Authority may be commenced or continued, or be available, by or against or to the Minister, as the case requires,
- 25

30 for the purpose of the winding up of the affairs of the Authority and the Minister is as soon as practicable after that expiry to wind up the affairs of the Authority.

s. 69

- (3) For the purposes of this section a reference to the Authority
in —
- (a) a written law; or
 - (b) a document in existence,
- 5 immediately before the expiry of this Act under subsection (1)
is after that expiry to be construed as a reference to the Minister.
- (4) Nothing in this section affects or limits any guarantee —
- (a) given by the Treasurer under section 61 in respect of any
money borrowed by the Authority under this Act; and
 - 10 (b) in force immediately before the expiry of this Act under
subsection (1),
- and section 61 is to continue to apply to that guarantee while
that guarantee remains in force as if this section had not come
into operation.

Part 8 — Amendment of various Acts

70. Amendment of *Constitution Acts Amendment Act 1899*

5 Schedule V, Part 3 of the *Constitution Acts Amendment Act 1899** is amended by inserting after the item relating to The Metropolitan (Perth) Passenger Transport Trust the following item —

“

The Midland Redevelopment Authority established by the
Midland Redevelopment Act 1999.

”.

[* *Reprinted as at 22 January 1997.*

For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p 53.]

71. Amendment of *Environmental Protection Act 1986*

15 (1) This section amends the *Environmental Protection Act 1986**.

(2) Section 3(1) is amended as follows:

(a) in the definition of “final approval”, after paragraph (a) the following paragraph is inserted —

“

20 (aa) prepared under the *Midland Redevelopment Act 1999*, means approval under section 35 of that Act, or under section 37 of that Act as read with that section;

”;

s. 71

- (b) in the definition of “period of public review”, after paragraph (a) the following paragraph is inserted —
- “
- (aa) prepared under the *Midland Redevelopment Act 1999*, means period referred to in section 34(1)(a) of that Act, or in section 37 of that Act as read with that section;
- ”;
- (c) in the definition of “responsible authority”, after subparagraph (a)(i) the following subparagraph is inserted —
- “
- (ia) prepared under the *Midland Redevelopment Act 1999*, means Midland Redevelopment Authority established by that Act;
- ”;
- (d) in the definition of “scheme”, after paragraph (a) the following paragraph is inserted —
- “
- (aa) redevelopment scheme within the meaning of the *Midland Redevelopment Act 1999*, or amendment to such a redevelopment scheme;
- ”;
- (e) the definition of “scheme Act” is amended by inserting after “1959,” —
- “ *Midland Redevelopment Act 1999*, ”.

- (3) Section 48C(7) is amended, in the definition of “public review”, after paragraph (a) by inserting the following paragraph —

“

(aa) prepared under the *Midland Redevelopment Act 1999*, means procedure referred to in sections 33 and 34 of that Act, or in section 37 of that Act as read with those sections;

”.

[* *Reprinted as at 7 March 1996.*

For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 83.]

72. Amendment of *Financial Administration and Audit Act 1985*

Schedule 1 of the *Financial Administration and Audit Act 1985** is amended by inserting, in the appropriate alphabetical position, the following —

“ Midland Redevelopment Authority ”.

[* *Reprinted as at 10 January 1997.*

For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 91.]

73. Amendment of *Government Employees Superannuation Act 1987*

Schedule 1 Part B of the *Government Employees Superannuation Act 1987** is amended by inserting, in the appropriate alphabetical position, the following —

“ Midland Redevelopment Authority ”.

[* *Reprinted as at 22 January 1999.*]

s. 74

74. Amendment of Metropolitan Region Town Planning Scheme Act 1959

(1) This section amends the *Metropolitan Region Town Planning Scheme Act 1959**.

5 (2) Section 32A(3) is amended as follows:

(a) after “1991” by deleting “or” and inserting a comma;

(b) after “1994” by inserting —

“

or section 45 of the *Midland Redevelopment Act 1999*

10

”;

(c) by deleting “either of those Acts” in both places where it occurs and inserting, in each case, the following —

“ any of those Acts ”.

(3) Section 38(4) is amended as follows:

15

(a) after “1991” by deleting “or” and inserting a comma;

(b) after “1994” by inserting —

“

or the *Midland Redevelopment Act 1999*

”.

20

[* Reprinted as at 7 March 1996.

For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 161.]

75. Amendment of *Public Sector Management Act 1994*

Schedule 2 of the *Public Sector Management Act 1994** is amended after item 28A by inserting the following —

“

5

28B. Midland Redevelopment Authority established under the *Midland Redevelopment Act 1999*

”

[* Reprinted as at 26 March 1999.]

10 **76. Amendment of *Statutory Corporations (Liability of Directors)***
Act 1996

Schedule 1 of the *Statutory Corporations (Liability of Directors) Act 1996** is amended by inserting, in the appropriate alphabetical position, the following item —

“

15

Midland Redevelopment Authority	a member of the Authority	<i>Midland Redevelopment Act 1999</i>
---------------------------------------	------------------------------	---

”

[* *Act No. 41 of 1996.*

For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 240.]

s. 77

77. Amendment of *Swan River Trust Act 1988*

Section 49(5) of the *Swan River Trust Act 1988** is amended after “that Act” by inserting —

“

5 or wholly in the redevelopment area within the meaning in the *Midland Redevelopment Act 1999* so long as there is in operation in respect of that land a redevelopment scheme under Part 4 of that Act

”.

10 [* Act No. 23 of 1988.

For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 247.]

78. Amendment of *Town Planning and Development Act 1928*

15 (1) The amendments in this section are to the *Town Planning and Development Act 1928**.

(2) Section 6(4) is amended as follows:

(a) after “1991” by deleting “or” and inserting a comma;

(b) after “1994” by inserting —

“

20 or in the *Midland Redevelopment Act 1999*

”;

(c) by deleting “either of those Acts” and inserting —

“ any of those Acts ”.

(3) Section 31(2a) is amended as follows:

25 (a) after “1991” by deleting “or” and inserting a comma;

(b) after “1994” by inserting the following —

“

or under Part 4 of the *Midland Redevelopment Act 1999*

5

”.

(4) Section 37 is amended in the definition of “appeal”, by inserting after paragraph (bb) the following —

“

(bc) an appeal under section 52 of the *Midland Redevelopment Act 1999*;

10

”.

[* Reprinted as at 19 March 1999.]

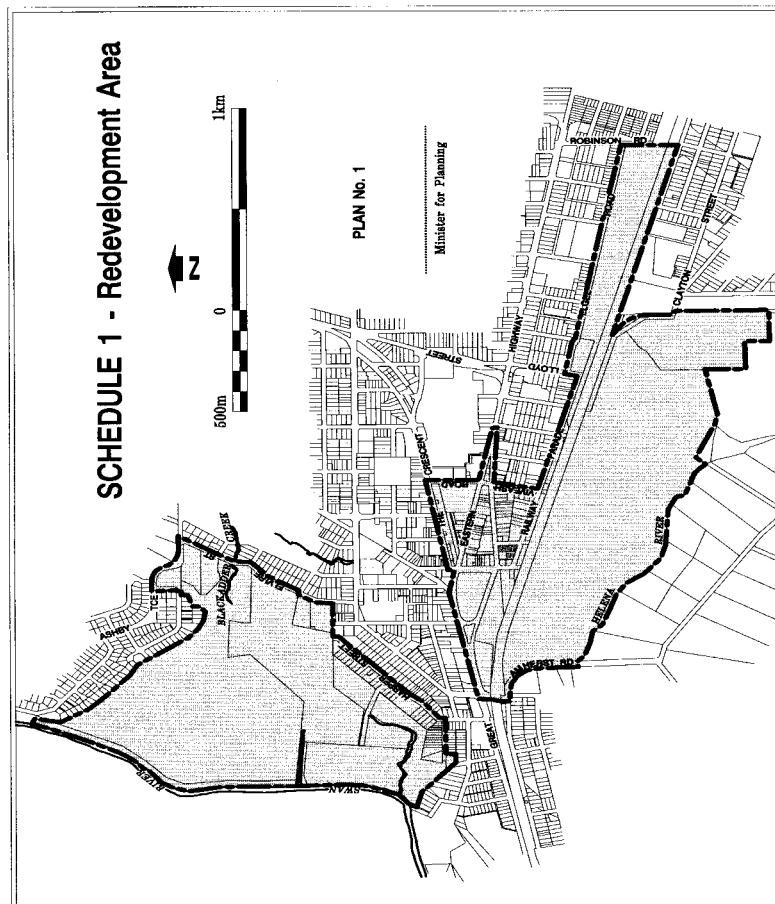
Schedule 1 — Redevelopment area

[s. 4]

5

All of the land in the area described as the redevelopment area on Plan No. 1 held at the office of the Authority, that plan being certified by the Minister as being the plan prepared for the purpose of defining the redevelopment area.

For guidance, the redevelopment area is indicated in the following representation of Plan No. 1 —



Schedule 2 — Provisions as to constitution and proceedings of the Authority

[s. 9]

1. Term of office

- 5 (1) Except as otherwise provided by this Act, a member holds office for the term, not exceeding 3 years, that is specified in the instrument of his or her appointment, but may from time to time be reappointed.
- (2) Unless —
- (a) he or she sooner resigns;
 - 10 (b) he or she is removed from office; or
 - (c) his or her office becomes vacant under clause 2(b),
- a member continues in office until his or her successor comes into office, despite the term for which the member was appointed having expired.

15 2. Resignation, removal, etc.

The office of a member becomes vacant if he or she —

- (a) resigns the office by written notice addressed to the Minister;
- (b) is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy;
- 20 (c) is removed from office by the Governor on the grounds of neglect of duty, misbehaviour, incompetence or mental or physical incapacity impairing the performance of his or her functions and proved to the satisfaction of the Governor; or
- 25 (d) in the case of a member appointed under section 7(1)(b), ceases to be a member of the council or an employee of the Shire of Swan, as the case may be.

Schedule 2 Provisions as to constitution and proceedings of the Authority

3. Temporary members

- 5 (1) If a member other than the chairperson is unable to act by reason of sickness, absence or other cause, the Minister may appoint another person to act temporarily in his or her place and, while so acting according to the tenor of his or her appointment, that other person is deemed to be a member of the Authority.
- (2) If the member who is deputy chairperson is performing the functions of the chairperson, the Minister may, under subclause (1), appoint another person to act in his or her place as member.
- 10 (3) No act or omission of a person acting in place of another under this clause is to be questioned on the ground that the occasion for his or her appointment or acting had not arisen or had ceased.
- (4) The appointment of a person as a temporary member may be terminated at any time by the Minister.

15 **4. Resignation, etc., of deputy chairperson**

The office of deputy chairperson becomes vacant if —

- (a) the person holding the office resigns the office by notice in writing to the Minister;
- 20 (b) the person holding the office ceases to be a member of the Authority; or
- (c) the Minister declares the office to be vacant.

5. Function of deputy chairperson

- 25 (1) During any vacancy in the office of chairperson, or while he or she is unable to act by reason of sickness, absence or other cause, the deputy chairperson is to perform the functions of the chairperson.
- (2) No act or omission of the deputy chairperson acting as the chairperson is to be questioned on the ground that the occasion for his or her so acting had not arisen or had ceased.

6. Meetings

- (1) The first meeting of the Authority is to be convened by the chairperson and subsequently, subject to subclause (2), meetings are to be held at the times and places that the Authority determines.
- 5 (2) A special meeting of the Authority may at any time be convened by the chairperson.
- (3) The chairperson is to preside at all meetings of the Authority at which he or she is present.
- 10 (4) If both the chairperson and the deputy chairperson are absent from a meeting the members present are to appoint one of their number to preside.
- (5) A quorum for a meeting of the Authority is 3 members.
- (6) At any meeting of the Authority the chairperson, deputy chairperson or other person presiding is to have a deliberative vote and, in the case of an equality of votes, is also to have a casting vote.
- 15 (7) The Authority is to cause accurate minutes to be kept of the proceedings at its meetings.

7. Committees

- 20 (1) The Authority may from time to time appoint committees of those members, or those members and other persons, that it thinks fit and may discharge or alter any committee so appointed.
- (2) Subject to the directions of the Authority and to the terms of any delegation under section 27, each committee may determine its own procedures.

25 **8. Resolution may be passed without meeting**

A resolution in writing signed or assented to by each member by letter, telegram, telex, electronic mail or facsimile transmission is as valid and effectual as if it had been passed at a meeting of the Authority.

Schedule 2 Provisions as to constitution and proceedings of the Authority

9. Leave of absence

The Authority may grant leave of absence to a member on the terms and conditions that the Authority thinks fit.

10. Authority to determine own procedures

5 Subject to this Act, the Authority is to determine its own procedures.

=====

Defined Terms

Defined Terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

5	Defined Term	Provision(s)
	a relevant qualification	7(2)
	Account	3
	acquire	3
	appointed day	43
10	assessed scheme	55(1)
	Authority	3
	business arrangement	20(8)
	chairperson	3
	committee	3
15	development	3
	dispose of	3
	document	29(4)
	eligible person	27(2)
	environmental condition	55(1)
20	EPA	3
	EP Act	3
	information	29(4)
	interest in land	3
	land	3
25	member	3
	Metropolitan Region Scheme	3
	Metropolitan Scheme Act	3
	Minister for the Environment	3
	officer	53(2)
30	participate	20(8)
	planning scheme	45(3)
	public authority	3
	PSM Act	3
	redevelopment area	3
35	redevelopment scheme	3
	Registrar	22(7)
	street	25(3)
	temporary member	3
40	Town Planning Act	3