

2005

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Mr Zed Seselja)

## Civic Development Authority Bill 2005

### Contents

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	Page
<b>Part 1</b>	
<b>Preliminary</b>	
1 Name of Act	2
2 Commencement	2
3 Object of Act	2
4 Dictionary	2
5 Notes	2
6 Territory plan	3
<b>Part 2</b>	
<b>Civic development area</b>	
7 Declaration of civic development area	4
8 Development of section master plan	4
9 Minister may approve section master plan	5

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## Contents

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	Page
10	5
11	6
<b>Part 3</b>	<b>Civic development authority</b>
<b>Division 3.1</b>	<b>Establishment and functions</b>
12	8
13	8
14	8
15	10
16	11
17	12
<b>Division 3.2</b>	<b>Authority board</b>
18	12
19	12
20	13
21	14
22	15
23	15
<b>Division 3.3</b>	<b>Chief executive officer</b>
24	16
25	17
<b>Division 3.4</b>	<b>Functions of board members</b>
26	18
27	18
28	18
29	19
30	19
31	19
32	21
33	21
34	22
<b>Division 3.5</b>	<b>Board meetings</b>
35	22

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	Page
36 Presiding member at meetings	23
37 Quorum at meetings	23
38 Voting at meetings	23
39 Conduct of meetings etc	24
<b>Division 3.6 Authority staff and consultants</b>	
40 Authority staff and consultants	24
<b>Division 3.7 Limitations and obligations of authority</b>	
41 Limitations on authority forming corporations etc	25
42 Limitations on authority taking part in joint ventures and trusts	26
43 Corporations, joint ventures and trusts in which authority has interest	27
44 Obligation to tell Minister about significant events	27
45 Ministerial directions about statements	28
<b>Division 3.8 Management</b>	
46 Authority to give information to Minister	29
47 Authority's annual report	29
<b>Division 3.9 Financial management</b>	
48 Proceeds of grants of leases	30
49 Payment of amounts to Territory	30
50 Copy of statement of intent	31
<b>Division 3.10 Miscellaneous</b>	
51 Execution of documents and assumptions people may make	31
52 Compensation for exercise of functions etc	32
53 Delegation by authority	33
54 Review of Act	33
55 Regulation-making power	33
56 Expiry of Act	33
<b>Dictionary</b>	<b>34</b>



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(Mr Zed Seselja)

## **Civic Development Authority Bill 2005**

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### **A Bill for**

An Act to provide for the development of the civic central area, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Civic Development Authority Act 2005*.

4 **2 Commencement**

5 This Act commences on the day after its notification day.

6 *Note* The naming and commencement provisions automatically commence on  
7 the notification day (see Legislation Act, s 75 (1)).

8 **3 Object of Act**

9 The main object of this Act is to ensure that the civic central area is  
10 revitalised and developed as a central business district appropriate  
11 for the nation's capital.

12 **4 Dictionary**

13 The dictionary at the end of this Act is part of this Act.

14 *Note 1* The dictionary at the end of this Act defines certain terms used in this  
15 Act, and includes references (*signpost definitions*) to other terms  
16 defined elsewhere in this Act.

17 For example, the signpost definition '*civic development area*—see  
18 section 7.' means that the term 'civic development area' is defined in  
19 that section.

20 *Note 2* A definition in the dictionary (including a signpost definition) applies to  
21 the entire Act unless the definition, or another provision of the Act,  
22 provides otherwise or the contrary intention otherwise appears (see  
23 Legislation Act, s 155 and s 156 (1)).

24 **5 Notes**

25 A note included in this Act is explanatory and is not part of this Act.

26 *Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of  
27 notes.

1 **6**      **Territory plan**

2            This Act does not permit the authority to do anything, or authorise  
3            the doing of anything, that is inconsistent with the territory plan.

1 **Part 2 Civic development area**

2 **7 Declaration of civic development area**

3 (1) The Minister must declare an area in the Canberra central district, in  
4 the vicinity of and including City Hill, to be the *civic development*  
5 *area*.

6 (2) Before making a declaration, the Minister must have regard to any  
7 recommendation of the civic development authority about the area  
8 to be the civic development area.

9 (3) A declaration is a disallowable instrument.

10 *Note* A disallowable instrument must be notified, and presented to the  
11 Legislative Assembly, under the Legislation Act.

12 (4) In this section:

13 *Canberra central district* means the area referred to as the Canberra  
14 central district in the territory plan.

15 **8 Development of section master plan**

16 (1) The civic development authority must develop a section master plan  
17 for the civic development area.

18 (2) In developing the plan, the civic development authority may engage  
19 in public consultation in any way it considers appropriate.

20 (3) However, the authority must, before giving the plan to the Minister  
21 for approval under section 9, prepare a notice (a *consultation*  
22 *notice*)—

23 (a) stating that copies of a draft of the plan are available for  
24 inspection during a stated period of at least 90 days at stated  
25 places; and

26 (b) inviting interested people to give written comments about the  
27 draft plan to the authority during the 90-day period.



1 (4) The consultation notice is a notifiable instrument.

2 *Note* A notifiable instrument must be notified under the Legislation Act.

3 (5) The authority must also publish the consultation notice in a daily  
4 newspaper circulating generally in the ACT.

## 5 **9 Minister may approve section master plan**

6 (1) The Minister may approve the section master plan for the civic  
7 development area.

8 (2) The Minister must decide whether or not to approve the plan not  
9 later than 3 months after the day the Minister receives it from the  
10 authority.

11 (3) An approval is a notifiable instrument.

12 *Note* A notifiable instrument must be notified under the Legislation Act.

13 (4) If a section master plan is approved by the Minister under this  
14 section—

15 (a) the section master plan is part of the territory plan; and

16 (b) the territory plan is varied in accordance with the section  
17 master plan.

18 (5) To remove any doubt, the *Land (Planning and Environment)*  
19 *Act 1991*, subdivisions 2.3.2, 2.3.3 or 2.3.4 (which deal with  
20 variations of the territory plan) apply to the territory plan as varied  
21 under subsection (4) (b) as if the variation had been made in  
22 accordance with that Act, division 2.3.

## 23 **10 Direction about development applications**

24 (1) The authority may direct the planning and land authority to refer to  
25 it an application in relation to the civic development area that has  
26 not been decided by the planning and land authority if the authority  
27 is satisfied that the application seeks approval for a development

- 1 that may have a substantial affect on the achievement or  
2 development of the objectives of the section master plan.
- 3 (2) A direction under subsection (1) is a notifiable instrument.
- 4 *Note* A notifiable instrument must be notified under the Legislation Act.
- 5 (3) When complying with the direction, the planning and land authority  
6 must give the authority—
- 7 (a) the information and documents received by the planning and  
8 land authority in relation to the application; and
- 9 (b) any other relevant information and documents held by the  
10 planning and land authority.
- 11 (4) If the authority gives a direction under subsection (1) in relation to  
12 an application, the planning and land authority must take no further  
13 action that would lead to a decision by the planning and land  
14 authority on the application.
- 15 (5) This section does not apply in relation to an application referred to  
16 the Minister under the *Land (Planning and Environment) Act 1991*,  
17 section 229A (Direction that applications be submitted to Minister).

18 **11 Authority may decide some applications**

- 19 (1) This section applies to an application referred to the authority under  
20 section 10.
- 21 (2) The authority may decide the application.
- 22 (3) In making a decision on the application, *Land (Planning and*  
23 *Environment) Act 1991*, part 6 (Approvals and orders) applies to the  
24 application as if—
- 25 (a) a reference in that Act to the relevant authority were a  
26 reference to the civic development authority; and
- 27 (b) any other necessary changes, and any changes prescribed by  
28 regulation, were made.

- 1           (4) As soon as possible after the authority decides the application, the  
2 authority must give the Minister, for presentation to the Legislative  
3 Assembly, a statement containing—
- 4           (a) a description of the development to which the application  
5           relates; and
- 6           (b) details of the land where the development is proposed to take  
7           place; and
- 8           (c) the applicant's name; and
- 9           (d) details of the authority's decision; and
- 10          (e) the reasons for the decision.
- 11          (5) The Minister must present the statement to the Legislative Assembly  
12 not later than 3 sitting days after the day the Minister receives it.

1 **Part 3 Civic development authority**

2 **Division 3.1 Establishment and functions**

3 **12 Establishment of civic development authority**

- 4 (1) The Civic Development Authority is established.
- 5 (2) The authority—
- 6 (a) is a corporation; and
- 7 (b) may sue and be sued in its corporate name; and
- 8 (c) may have a seal.
- 9 (3) The authority represents the Territory when exercising its functions.

10 **13 Functions of authority**

- 11 (1) The main function of the authority is the achievement of the object
- 12 of this Act by promoting, coordinating and managing the
- 13 development of the civic development area on behalf of the
- 14 Territory.
- 15 (2) The authority also has any other function given to the authority
- 16 under this Act or any other territory law.

17 *Note* A provision of a law that gives an entity (including a person) a function

18 also gives the entity powers necessary and convenient to exercise the

19 function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

20 **14 Exercise of authority's functions**

- 21 (1) The authority must exercise its functions—
- 22 (a) in a way that is consistent with the social and economic needs
- 23 of the Territory; and
- 24 (b) in accordance with prudent commercial principles; and

- 1 (c) in consultation with residents of the ACT as prescribed by  
2 regulation; and
- 3 (d) in a way that shows a sense of social responsibility by having  
4 regard to the interests of the community in which it operates,  
5 and by trying to accommodate or encourage those interests;  
6 and
- 7 (e) if its activities affect the environment—in compliance with the  
8 object of ecologically sustainable development.
- 9 (2) In this section:
- 10 *ecologically sustainable development* means the effective  
11 integration of environmental and economic considerations in  
12 decision-making processes achievable through implementation of  
13 the following principles:
- 14 (a) the precautionary principle;  
15 (b) the inter-generational equity principle;  
16 (c) conservation of biological diversity and ecological integrity;  
17 (d) improved valuation and pricing of environmental resources.
- 18 *inter-generational equity principle* means that the present  
19 generation should ensure that the health, diversity and productivity  
20 of the environment is maintained or enhanced for the benefit of  
21 future generations.
- 22 *precautionary principle* means that, if there is a threat of serious or  
23 irreversible environmental damage, a lack of full scientific certainty  
24 should not be used as a reason for postponing measures to prevent  
25 environmental degradation.

1 **15 Powers of the authority generally**

- 2 (1) The authority has the legal capacity and powers of an individual  
3 both in and outside the ACT (including outside Australia).

4 **Examples**

5 1 to enter into a contract

6 2 to own, deal with and dispose of property

7 *Note* An example is part of the Act, is not exhaustive and may extend, but  
8 does not limit, the meaning of the provision in which it appears (see  
9 Legislation Act, s 126 and s 132).

- 10 (2) Without limiting subsection (1), the authority—

11 (a) has the powers given to it under this Act or another territory  
12 law; and

13 (b) may do anything that it is authorised to do by a territory law or  
14 a law of another jurisdiction; and

15 (c) may exercise its powers in and outside the ACT (including  
16 outside Australia).

17 **Example for par (b)**

18 The authority may arrange to be registered or recognised under a law of another  
19 jurisdiction.

- 20 (3) The authority's legal capacity to do something is not affected by the  
21 fact that the authority's interests are not, or would not be, served by  
22 doing it.

- 23 (4) To remove any doubt, this section does not—

24 (a) authorise the authority to do anything that is prohibited by a  
25 territory law or a law of another jurisdiction; or

26 (b) give the authority a right that a territory law or a law of another  
27 jurisdiction denies to the authority.

1 (5) In this section:

2 *another jurisdiction* means the Commonwealth, a State, another  
3 Territory or a foreign country.

4 **16 Exercise of functions**

5 (1) In exercising its functions, the authority may do any of the  
6 following:

7 (a) if authorised by the Executive, grant leases of land (including  
8 to itself) on behalf of the Executive;

9 (b) hold leases of, or any other interest in, land;

10 (c) construct roads, lanes, footpaths and passageways;

11 (d) design, construct, or participate in the design or construction  
12 of, buildings, structures and facilities;

13 (e) carry out any works and operations necessary for making land  
14 suitable for professional, commercial, industrial, residential or  
15 community purposes;

16 (f) occupy and use any land or building;

17 (g) maintain and manage land, buildings, structures, works or  
18 other property;

19 (h) make charges for work done or services rendered;

20 (i) form, or participate in the formation of, companies;

21 (j) enter into partnerships or participate in joint ventures;

22 (k) enter into any other contract or arrangement with anyone for  
23 the doing of anything that the authority may do under this or  
24 any other Act;

25 (l) subscribe for or purchase shares in, or debentures or other  
26 securities of, companies;

27 (m) act as agent for someone else;

- 1 (n) appoint agents or attorneys.  
2 (2) This section does not limit how the authority may exercise its  
3 functions.

4 **17 Ministerial directions to authority**

- 5 (1) The Minister may give written directions to the authority—  
6 (a) about the general policies the authority should follow; or  
7 (b) the principles that are to govern the exercise of its functions.  
8 (2) Before giving a direction, the Minister must—  
9 (a) tell the authority about the proposed direction; and  
10 (b) give the authority reasonable opportunity to comment on the  
11 proposed direction; and  
12 (c) consider any comments made by the authority.  
13 (3) A direction is a notifiable instrument.

14 *Note* A notifiable instrument must be notified under the Legislation Act.

15 **Division 3.2 Authority board**

16 **18 Establishment of authority governing board**

17 The civic development authority has a governing board (the  
18 *authority board*).

19 **19 Role of authority governing board**

- 20 (1) The authority board has the following functions:  
21 (a) setting the authority's policies and strategies;  
22 (b) ensuring, as far as practicable, that the authority operates  
23 consistently with this Act and other relevant legislation;



1 (c) ensuring, as far as practicable, that the authority operates in a  
2 proper, effective and efficient way.

3 **Examples of policies for par (a)**

- 4 1 risk management  
5 2 communication with government  
6 3 corporate planning

7 *Note* An example is part of the Act, is not exhaustive and may extend, but  
8 does not limit, the meaning of the provision in which it appears (see  
9 Legislation Act, s 126 and s 132).

10 (2) This section does not limit the functions of the board.

11 **20 Authority board members**

12 (1) The authority board has at least 9 and not more than 12 members.

13 (2) The Minister must appoint the members (other than the CEO).

14 *Note 1* The CEO is a member of the board (see s 24 (2)).

15 *Note 2* For the making of appointments (including acting appointments), see  
16 the Legislation Act, pt 19.3.

17 *Note 3* Certain Ministerial appointments require consultation with an Assembly  
18 committee and are disallowable (see Legislation Act, div 19.3.3).

19 (3) The Minister must appoint as members—

20 (a) a member or employee of the national capital authority  
21 nominated by the national capital authority to represent its  
22 interests; and

23 (b) a person to represent the planning and land authority; and

24 (c) 2 people with significant experience in business in the ACT;  
25 and

26 (d) 2 people to represent the interests of the general community.

- 1 (4) The Minister must ensure that the following areas of expertise are  
2 represented among the members appointed:
- 3 (a) land development;
- 4 (b) urban planning and design;
- 5 (c) engineering;
- 6 (d) architecture;
- 7 (e) transport or transport planning.
- 8 (5) The only other criteria for deciding whether to appoint a person as a  
9 member is the contribution the person can make to the goals and  
10 objectives of the authority board.
- 11 (6) The appointment of a member, other than the CEO, must be for a  
12 term of not longer than 3 years.
- 13 *Note* A person may be reappointed to a position if the person is eligible to be  
14 appointed to the position (see Legislation Act, s 208 and dict, pt 1,  
15 def *appoint*).
- 16 (7) The conditions of appointment of a member are the conditions  
17 agreed between the Minister and the member, subject to any  
18 determination under the *Remuneration Tribunal Act 1995*.
- 19 *Note* The *Remuneration Tribunal Act 1995* allows terms and conditions for  
20 people appointed to be set by determination under that Act.
- 21 (8) The CEO and the members mentioned in subsection (3) (a) and (b)  
22 are non-voting members of the authority board.

23 **21 Remuneration and allowances**

24 An appointed member is entitled to remuneration, allowances and  
25 other entitlements in accordance with a determination of the  
26 remuneration tribunal.

1   **22**           **Chair and deputy chair**

2                   The members of the board must elect a chair and deputy chair for  
3                   the board.

4   **23**           **Ending board member appointments**

- 5           (1) This section applies to a board member other than the CEO.
- 6           (2) The Minister may end the member's appointment—
- 7               (a) if the member contravenes a territory law; or
- 8               (b) for misbehaviour; or
- 9               (c) if the member becomes bankrupt or executes a personal  
10              insolvency agreement; or
- 11              (d) if the member is convicted, in the ACT, of an offence  
12              punishable by imprisonment for at least 1 year; or
- 13              (e) if the member is convicted outside the ACT, in Australia or  
14              elsewhere, of an offence that, if it had been committed in the  
15              ACT, would be punishable by imprisonment for at least 1 year;  
16              or
- 17              (f) if the member contravenes section 31 (Disclosure of interests  
18              by board members); or
- 19              (g) if the member exercises the member's functions other than in  
20              accordance with section 28 (Honesty, care and diligence of  
21              board members).
- 22           (3) The Minister must end the member's appointment—
- 23               (a) if the member is absent from 3 consecutive meetings of the  
24               board, otherwise than on approved leave; or
- 25               (b) for physical or mental incapacity, if the incapacity substantially  
26               affects the exercise of the member's functions; or

- 1 (c) if the member fails to take all reasonable steps to avoid being  
2 placed in a position where a conflict of interest arises during  
3 the exercise of the member's functions.
- 4 (4) The Minister may end the appointment of the member (the *member*  
5 *concerned*) if the board tells the Minister in writing that it has  
6 resolved, by a majority of at least  $\frac{2}{3}$  of the members, to recommend  
7 to the Minister that the member's appointment be ended.
- 8 *Note* A person's appointment also ends if the person resigns (see Legislation  
9 Act, s 210).
- 10 (5) The board may pass a resolution mentioned in subsection (4) only  
11 if—
- 12 (a) at least 3 weeks written notice of the intention to consider the  
13 proposed resolution has been given to the member concerned;  
14 and
- 15 (b) the member concerned has been given an opportunity to make  
16 submissions and present documents to a meeting of the board;  
17 and
- 18 (c) if the member concerned has used the opportunity mentioned  
19 in paragraph (b)—a summary of the member's submissions is  
20 recorded in the minutes of the board and a copy of any  
21 documents presented is included in the minutes.

## 22 **Division 3.3 Chief executive officer**

### 23 **24 Appointment of CEO of authority**

- 24 (1) The authority board must, after consulting the Minister, appoint a  
25 CEO for the authority.
- 26 (2) The CEO is a member of the board.

- 1 (3) However, the CEO is not a member of the board if it is  
2 considering—
- 3 (a) the appointment, or the ending of the appointment, of the CEO;  
4 or
- 5 (b) the CEO's conditions of appointment.
- 6 *Note* The CEO is a non-voting member of the board (see s 20 (8)).
- 7 (4) The conditions of appointment of the CEO are the conditions agreed  
8 between the board and the CEO, subject to any determination under  
9 the *Remuneration Tribunal Act 1995*.

10 **25 CEO's functions**

- 11 (1) The CEO of the authority has the following functions:
- 12 (a) ensuring, as far as practicable, that the authority's statement of  
13 intent is implemented effectively and efficiently;
- 14 (b) managing the day-to-day operations of the authority in  
15 accordance with—
- 16 (i) the policies of the authority set by the board; and  
17 (ii) each legal requirement that applies to the authority;
- 18 **Example for par (ii)**  
19 a direction by the independent competition and regulatory commission that  
20 relates to the authority
- 21 *Note* An example is part of the Act, is not exhaustive and may extend,  
22 but does not limit, the meaning of the provision in which it  
23 appears (see Legislation Act, s 126 and s 132).
- 24 (c) regularly advising the board about the operation and financial  
25 performance of the authority;
- 26 (d) immediately advising the board about significant events.

- 1 (2) In this section:  
2 *significant event*, for the authority, means an event that the  
3 authority is required to tell the Minister about under section 44.

## 4 **Division 3.4 Functions of board members**

### 5 **26 Chair's functions**

6 The chair of the authority board has the following functions:

- 7 (a) managing the affairs of the board;  
8 (b) ensuring, as far as practicable, that there is a good working  
9 relationship between the board and management of the  
10 authority;  
11 (c) ensuring the Minister is kept informed about the operations of  
12 the authority.

### 13 **27 Deputy chair's functions**

14 If the chair of the authority board is absent or cannot for any reason  
15 exercise the functions of the chair, the deputy chair of the board  
16 must exercise the functions of the chair.

17 *Note 1* The Legislation Act, s 209 deals with acting appointments.

18 *Note 2* The CEO is a member of the board. For CEO's functions, see s 25.

### 19 **28 Honesty, care and diligence of board members**

20 In exercising the functions of an authority board member, a member  
21 must exercise the degree of honesty, care and diligence required to  
22 be exercised by a director of a corporation in relation to the affairs  
23 of the corporation.

- 1    **29**        **Conflict of interest**
- 2                An authority board member must take all reasonable steps to avoid  
3                being placed in a position where a conflict of interest arises during  
4                the exercise of the member’s functions.
- 5    **30**        **Agenda to require disclosure of interest item**
- 6                The agenda for each meeting of the authority board must include an  
7                item requiring any material interest in relation to an issue to be  
8                considered at the meeting to be disclosed to the meeting.
- 9    **31**        **Disclosure of interests by board members**
- 10               (1) If an authority board member has a material interest in an issue  
11               being considered, or about to be considered, by the board, the  
12               member must disclose the nature of the interest at a board meeting  
13               as soon as practicable after the relevant facts come to the member’s  
14               knowledge.
- 15               (2) The disclosure must be recorded in the board’s minutes and, unless  
16               the board otherwise decides, the member must not—
- 17                     (a) be present when the board considers the issue; or
- 18                     (b) take part in a decision of the board on the issue.
- 19               (3) Any other board member who also has a material interest in the  
20               issue must not be present when the board is considering its decision  
21               under subsection (2).
- 22               (4) In this section:
- 23                     *associate*, of a person, means—
- 24                     (a) the person’s business partner; or
- 25                     (b) a close friend of the person; or
- 26                     (c) a family member of the person.

1 ***executive officer***, of a corporation, means a person, by whatever  
2 name called and whether or not the person is a director of the  
3 corporation, who is concerned with, or takes part in, the  
4 corporation's management.

5 ***indirect interest***—without limiting the kinds of indirect interests a  
6 person may have, a person has an ***indirect interest*** in an issue if any  
7 of the following has an interest in the issue:

- 8 (a) an associate of the person;
- 9 (b) a corporation if the corporation has not more than  
10 100 members and the person, or an associate of the person, is a  
11 member of the corporation;
- 12 (c) a subsidiary of a corporation mentioned in paragraph (b);
- 13 (d) a corporation if the person, or an associate of the person, is an  
14 executive officer of the corporation;
- 15 (e) the trustee of a trust if the person, or an associate of the person,  
16 is a beneficiary of the trust;
- 17 (f) a member of a firm or partnership if the person, or an associate  
18 of the person, is a member of the firm or partnership;
- 19 (g) someone else carrying on a business if the person, or an  
20 associate of the person, has a direct or indirect right to  
21 participate in the profits of the business.

22 ***material interest***—a board member has a ***material interest*** in an  
23 issue if the member has—

- 24 (a) a direct or indirect financial interest in the issue; or
- 25 (b) a direct or indirect interest of any other kind if the interest  
26 could conflict with the proper exercise of the member's  
27 functions in relation to the board's consideration of the issue.



- 1     **32           Reporting of disclosed interests to Minister**
- 2           (1) Not later than 3 months after the day an interest is disclosed under
- 3           section 31 (1), the chair of the authority board must report to the
- 4           Minister in writing about—
- 5               (a) the disclosure; and
- 6               (b) the nature of the interest disclosed; and
- 7               (c) any decision by the board under section 31 (2).
- 8           (2) The chair must also give the Minister, not later than 31 days after
- 9           the end of each financial year, a statement that sets out the
- 10           information given to the Minister in reports under subsection (1)
- 11           that relate to disclosures made during the previous financial year.
- 12           (3) The Minister must give a copy of the statement to the relevant
- 13           committee of the Legislative Assembly not later than 31 days after
- 14           the day the Minister receives the statement.
- 15           (4) In this section:
- 16               *relevant committee* means—
- 17               (a) a standing committee of the Legislative Assembly nominated
- 18               by the Speaker for subsection (3); or
- 19               (b) if no nomination under paragraph (a) is in effect—the standing
- 20               committee of the Legislative Assembly responsible for public
- 21               accounts.
- 22     **33           Protection of board members from liability**
- 23           (1) An authority board member is not personally liable for anything
- 24           done or omitted to be done honestly and without recklessness—
- 25               (a) in the exercise of a function under a territory law; or
- 26               (b) in the reasonable belief that the act or omission was in the
- 27               exercise of a function under a territory law.

- 1 (2) Any liability that would, apart from this section, attach to a board  
2 member of a territory authority attaches instead to the authority.

3 **34 Indemnification and exemption of board members**

- 4 (1) The authority must not exempt a board member (whether directly or  
5 through another entity) from liability to the authority.

- 6 (2) The authority must not indemnify a board member (whether directly  
7 or through another entity and whether by agreement or by making a  
8 payment) against any of the following liabilities incurred as a board  
9 member:

10 (a) a liability owed to the authority;

11 (b) a liability owed to someone other than the authority that did  
12 not arise from honest conduct.

- 13 (3) The authority must not indemnify a board member (whether directly  
14 or through another entity and whether by agreement or by making a  
15 payment) against legal costs incurred as a member if the costs are  
16 incurred—

17 (a) in defending or resisting a proceeding if the person is found to  
18 have a liability for which the person could not be indemnified  
19 under subsection (2); or

20 *Note* A board member is not personally liable for certain acts done or  
21 omissions made honestly and without recklessness (see s 33).

22 (b) in defending or resisting a criminal proceeding in which the  
23 person is found guilty.

24 **Division 3.5 Board meetings**

25 **35 Time and place of board meetings**

- 26 (1) Meetings of the authority board are to be held when and where it  
27 decides.

- 28 (2) However, the board must meet at least once every 3 months.

- 1           (3) The chair—  
2               (a) may at any time call a meeting of the board; and  
3               (b) must call a meeting if asked by the Minister or at least  
4               2 members.  
5           (4) The chair must give the other members reasonable notice of the time  
6               and place of a meeting called by the chair.

7   **36           Presiding member at meetings**

- 8           (1) The chair presides at all meetings at which the chair is present.  
9           (2) If the chair is absent, the deputy chair presides.  
10          (3) If the chair and the deputy chair are absent, the member chosen by  
11             the members present presides.  
12          (4) However, the members must not choose a non-voting member to  
13             preside.

14   **37           Quorum at meetings**

- 15          (1) Business may be carried on at a meeting of the authority board only  
16             if at least  $\frac{1}{2}$  the number of members appointed are present.  
17          (2) However, a non-voting member is not counted as a member  
18             appointed or present for subsection (1).

19   **38           Voting at meetings**

- 20          (1) At a meeting of the authority board each member has a vote on each  
21             question to be decided.  
22          (2) A question is decided by a majority of the votes of the members  
23             present and voting but, if the votes are equal, the member presiding  
24             has a deciding vote.

1 **39 Conduct of meetings etc**

2 (1) The authority board may conduct its proceedings (including its  
3 meetings) as it considers appropriate.

4 (2) A meeting may be held using a method of communication, or a  
5 combination of methods of communication, that allows a board  
6 member taking part to hear what each other member taking part says  
7 without the members being in each other's presence.

8 **Examples**

9 a phone link, a satellite link

10 *Note* An example is part of the Act, is not exhaustive and may extend, but  
11 does not limit, the meaning of the provision in which it appears (see  
12 Legislation Act, s 126 and s 132).

13 (3) A board member who takes part in a meeting conducted under  
14 subsection (2) is taken, for all purposes, to be present at the meeting.

15 (4) A resolution is a valid resolution of the board, even if it is not  
16 passed at a meeting of the board, if all members agree to the  
17 proposed resolution in writing or by electronic communication.

18 **Example of electronic communication**

19 email

20 (5) The board must keep minutes of its meetings.

21 **Division 3.6 Authority staff and consultants**

22 **40 Authority staff and consultants**

23 (1) The authority may employ staff and engage consultants.

24 (2) The *Public Sector Management Act 1994* does not apply to the  
25 authority.

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1 **Division 3.7**                      **Limitations and obligations of**  
2    **authority**

3 **41**                      **Limitations on authority forming corporations etc**

4                      (1) The authority must not do any of the following without the  
5                      Minister's prior written approval:

6                                      (a) subscribe for, or purchase, shares in or debentures or other  
7                                      securities of, a corporation;

8                                      (b) form, or take part in the formation of, a corporation.

9                      (2) An approval under subsection (1)—

10                                      (a) must relate only to a particular corporation or proposed  
11                                      corporation; and

12                                      (b) may be given subject to the conditions or restrictions stated in  
13                                      the approval.

14                      (3) If the authority does something mentioned in subsection (1), the  
15                      authority must tell the Minister not later than 2 weeks after the day  
16                      the authority does the thing.

17                      (4) The Minister must—

18                                      (a) prepare a written statement setting out details of, and reasons  
19                                      for, the authority's action; and

20                                      (b) present the statement to the Legislative Assembly not later than  
21                                      6 sitting days after the day the Minister is told about the action.

22                      (5) A statement need not include any material that is commercially  
23                      sensitive.

24                      (6) However, if commercially sensitive information is not included in  
25                      the statement, the Minister must, when presenting the statement to  
26                      the Legislative Assembly, also present a further statement setting  
27                      out the general nature of the information and the reason for its  
28                      non-inclusion in the statement.

- 1     **42**         **Limitations on authority taking part in joint ventures and**  
2                   **trusts**
- 3             (1) The authority must not take part in a joint venture or trust without  
4               the Minister’s prior written approval.
- 5             (2) An approval under subsection (1)—
- 6               (a) may apply generally or may relate to a particular proposed  
7                 joint venture or trust; and
- 8               (b) may be given subject to the conditions or restrictions stated in  
9                 the approval.
- 10            (3) If the authority enters into an agreement for a joint venture or trust,  
11               the authority must tell the Minister not later than 2 weeks after the  
12               day the authority enters into the agreement.
- 13            (4) The Minister must—
- 14               (a) prepare a written statement setting out details of, and reasons  
15                 for, the agreement; and
- 16               (b) present the statement to the Legislative Assembly not later than  
17                 6 sitting days after the day the Minister is told about the  
18                 agreement.
- 19            (5) A statement need not include any material that is commercially  
20               sensitive.
- 21            (6) However, if commercially sensitive information is not included in  
22               the statement, the Minister must, when presenting the statement to  
23               the Legislative Assembly, also present a further statement setting  
24               out the general nature of the information and the reason for its  
25               non-inclusion in the statement.

- 
- 1   **43**       **Corporations, joint ventures and trusts in which authority**  
2               **has interest**
- 3           (1) If the authority has a controlling interest in a corporation, joint  
4               venture or trust, the authority must ensure that—
- 5               (a) the auditor-general is appointed auditor for the corporation,  
6                     joint venture or trust; and
- 7               (b) the corporation or joint venture, or a trustee for the trust, does  
8                     not do anything that the authority itself could not do.
- 9           (2) If the authority has an interest, other than a controlling interest, in a  
10               corporation, joint venture or trust, the authority must try to ensure  
11               that the auditor-general is appointed auditor for the corporation,  
12               joint venture or trust.
- 13               *Note*     The *Auditor-General Act 1996*, s 14 allows the auditor-general to  
14                     require a person to give to the auditor-general information and  
15                     documents.
- 16           (3) In this section—
- 17               **controlling interest**—see the *Auditor-General Act 1996*, section 5.
- 18   **44**       **Obligation to tell Minister about significant events**
- 19           (1) The authority must, as soon as practicable, tell the Minister of any  
20               significant event that affects, or seems likely to affect—
- 21               (a) the value of the authority; or
- 22               (b) a significant part of the authority’s assets; or
- 23               (c) the performance of the authority as a whole; or
- 24               (d) the carrying out of a significant activity of the authority.

- 1 (2) For this section, an event, part of assets or activity is *significant* for  
2 the authority if—
- 3 (a) it is significant when interpreted in accordance with accounting  
4 standards relating to materiality ordinarily used in Australia  
5 when the decision about whether it is significant is made; or
- 6 (b) a document published by the authority identifies it as  
7 significant (however described); or
- 8 (c) a memorandum of understanding or other agreement between  
9 the Minister or the Treasurer and the authority identifies it as  
10 significant (however described); or
- 11 (d) it is prescribed under the financial management guidelines.

12 **45 Ministerial directions about statements**

- 13 (1) The Minister may, in writing, direct the chair of the authority board  
14 to give the Minister financial or other statements relating to the  
15 authority.
- 16 (2) Without limiting subsection (1), the direction may state the form in  
17 which the statements are to be given and the period to which they  
18 must relate.
- 19 (3) If the chair receives a direction under subsection (1), the chair must  
20 prepare the statements required by the direction and give them to the  
21 Minister not later than 1 month after the day the chair receives the  
22 direction or, if a longer period is allowed by the Minister, within the  
23 longer period.
- 24 (4) The Minister must not allow a longer period under subsection (3) for  
25 complying with a direction unless satisfied that there are special  
26 circumstances that justify the longer period.



1 **Division 3.8 Management**

2 **46 Authority to give information to Minister**

- 3 (1) The authority must give the Minister the information about its  
4 operations required by the Minister.
- 5 (2) The authority must tell the Minister about any development that, in  
6 the authority's view, may significantly affect—
- 7 (a) an objective set out in the authority's statement of intent; or
- 8 (b) the financial viability or operating ability of the authority or a  
9 corporation, joint venture or trust in which the authority has an  
10 interest.
- 11 (3) The authority must tell the Minister under subsection (2) about a  
12 development not later than 14 days after the day the authority  
13 becomes aware of the existence of the development.

14 **47 Authority's annual report**

15 A report prepared by the authority under the *Annual Reports*  
16 *(Government Agencies) Act 2004* for a financial year must include—

- 17 (a) a copy of any direction given under section 17 (Ministerial  
18 directions to authority) during the year; and
- 19 (b) a statement by the authority about action taken during the year  
20 to give effect to any direction given (whether before or during  
21 the year) under that section.

1 **Division 3.9 Financial management**

2 *Note* The authority is a territory authority for the *Financial Management*  
3 *Act 1996* (see that Act, dict) and is subject to pt 8 (which relates to  
4 financial provisions for territory authorities).

5 **48 Proceeds of grants of leases**

6 (1) Any consideration received by the authority for the grant of a lease  
7 of land is taken to be income of the authority.

8 (2) In this section:

9 *lease of land* includes the grant, under authorisation of the  
10 Executive, of a lease (including a lease to the authority) of land that,  
11 immediately before the grant, was unleased.

12 **49 Payment of amounts to Territory**

13 (1) The Treasurer may direct the authority, in writing, to pay an amount  
14 to the Territory, in the way, at the time and on the terms and  
15 conditions that the Treasurer requires.

16 (2) In giving a direction, the Treasurer must have regard to—

17 (a) the assets and liabilities of the authority; and

18 (b) its income and expenditure; and

19 (c) the ability of the authority to exercise its functions; and

20 (d) the requirement that the Territory obtain a reasonable return  
21 from the development and the disposal of unleased land.

22 (3) For subsection (2) (a), the civic development area is taken to be an  
23 asset of the authority.

24 (4) The authority must comply with a direction under this section.

1    **50**           **Copy of statement of intent**

- 2           (1) The authority must give the Minister a copy of the statement of  
3           intent that it gives to the Treasurer under the *Financial Management*  
4           *Act 1996*.
- 5           (2) The Minister must present the statement of intent to the Legislative  
6           Assembly not later than 6 sitting days after the day the Minister  
7           receives it.
- 8           (3) However, the statement of intent presented to the Legislative  
9           Assembly need not include any material that is commercially  
10          sensitive.
- 11          (4) However, if commercially sensitive information is not included in  
12          the statement of intent, the Minister must, when presenting it to the  
13          Legislative Assembly, also present a further statement setting out  
14          the general nature of the information and the reason for its  
15          non-inclusion in the statement.

16    **Division 3.10**           **Miscellaneous**

17    **51**           **Execution of documents and assumptions people may**  
18           **make**

- 19          (1) The applied Corporations Act provisions apply to the authority as  
20          if—
- 21           (a) a reference to a *company* were a reference to the authority; and
- 22           (b) a reference to a *common seal* were a reference to the seal of  
23           the authority; and
- 24           (c) a reference to a *director* were a reference to a board member;  
25           and
- 26           (d) a reference to a company's *constitution* were a reference to  
27           this Act; and

- 1 (e) a reference to an *officer* of a company were a reference to the  
2 CEO and any member of staff of the authority; and
- 3 (f) a reference to *information available to the public from ASIC*  
4 were a reference to information available to the public from the  
5 Territory; and
- 6 (g) any other necessary changes, and any change prescribed by  
7 regulation, were made.
- 8 (2) In this section:
- 9 *applied Corporations Act provisions* means the following  
10 provisions of the Corporations Act:
- 11 (a) section 127 (which is about the execution of documents by a  
12 company);
- 13 (b) section 128 (which is about a person's entitlement to make  
14 certain assumptions in dealing with a company);
- 15 (c) section 129 (which is about the assumptions that may be  
16 made).

17 **52 Compensation for exercise of functions etc**

- 18 (1) A person may claim compensation from the Territory if the person  
19 suffers loss because of the exercise, or purported exercise, of a  
20 function under this part or the establishing Act.
- 21 (2) Compensation may be claimed and ordered in a proceeding for  
22 compensation brought in a court of competent jurisdiction.
- 23 (3) A court may order the payment of reasonable compensation for the  
24 loss or expense only if it is satisfied it is just to make the order in the  
25 circumstances of the particular case.
- 26 (4) A regulation may prescribe matters that may, must or must not be  
27 taken into account by the court in considering whether it is just to  
28 make the order.

1    **53**        **Delegation by authority**

2            The authority may delegate a function to a member of the authority  
3            board or a public servant.

4            *Note*     For the making of delegations and the exercise of delegated functions,  
5            see the Legislation Act, pt 19.4.

6    **54**        **Review of Act**

7            (1) The Minister must review the operation of this Act and present a  
8            report of the review to the Legislative Assembly—

9            (a) as soon as practicable after the end of its 7th year of operation;  
10           and

11           (b) as soon as practicable after the end of its 14th year of  
12           operation.

13           (2) In reviewing the Act, the Minister must have regard to—

14           (a) the effectiveness of the operations of the authority; and

15           (b) the need for the continuation of the authority.

16           (3) The Minister may have regard to anything else that the Minister  
17           considers relevant to the operation and effectiveness of this Act.

18    **55**        **Regulation-making power**

19            The Executive may make regulations for this Act.

20            *Note*     A regulation must be notified, and presented to the Legislative  
21            Assembly, under the Legislation Act.

22    **56**        **Expiry of Act**

23            This Act expires 15 years after the day it commences.

## 1 Dictionary

2 (see s 3)

3 *Note 1* The Legislation Act contains definitions and other provisions relevant to  
4 this Act.

5 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 6 • ACT
- 7 • Corporations Act
- 8 • exercise
- 9 • function
- 10 • national capital authority
- 11 • person
- 12 • planning and land authority
- 13 • public servant
- 14 • territory plan
- 15 • the Territory
- 16 • under.

17 *authority* means the civic development authority established under  
18 section 12.

19 *authority board* means the governing board of the authority.

20 *CEO* means the chief executive officer of the authority.

21 *chair* means the chair of the authority board.

22 *civic development area*—see section 7.

23 *member* means a member of the authority board.

24 *section master plan*—see the territory plan, part D (Definition of  
25 terms).

26 *statement of intent*, for a financial year, means the authority's  
27 statement of intent for the year under the *Financial Management*  
28 *Act 1996*.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2005.

**2 Notification**

Notified under the Legislation Act on 2005.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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