



New South Wales

# Transport Administration Amendment (Sydney Ferries) Bill 2003

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are as follows:

- (a) to constitute Sydney Ferries, a statutory State owned corporation, and to confer on it the State Transit Authority's functions of providing Sydney ferry services and related functions,
- (b) to make consequential amendments and provision of a savings and transitional nature consequent on the proposed Act.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the Acts and instruments specified in Schedules 1 and 2.

## **Schedule 1 Amendment of Transport Administration Act 1988**

**Schedule 1 [7]** inserts proposed Part 3A into the *Transport Administration Act 1988* (the *Principal Act*), which constitutes Sydney Ferries and contains the following provisions:

### **Part 3A Sydney Ferries**

#### **Division 1 Constitution of Sydney Ferries as statutory SOC**

Proposed section 35A establishes Sydney Ferries as a statutory State owned corporation under the *State Owned Corporations Act 1989* (the *SOC Act*). As a result, the provisions of that Act relating to functions, constitutions and other matters of such corporations will, except as provided by the proposed Part, apply to Sydney Ferries.

#### **Division 2 Objectives of Sydney Ferries**

Proposed section 35B confers on Sydney Ferries its principal objective of delivering safe and reliable Sydney ferry services in an efficient, effective and financially responsible manner. *Sydney ferry services* are ferry services provided in Sydney Harbour or the Parramatta River. Other objectives, including being a successful business and exhibiting a sense of social responsibility by having regard to the interests of the community in which it operates, are also conferred on Sydney Ferries.

#### **Division 3 Functions of Sydney Ferries**

Proposed section 35C confers on Sydney Ferries the function of operating Sydney ferry services, including services previously operated by the State Transit Authority (the *STA*).

Proposed section 35D enables Sydney Ferries to operate other transport services, including bus services, whether or not in connection with its ferry services.

Proposed section 35E confers other functions on Sydney Ferries, including conducting any business (whether or not related to its functions) that it considers will further its objectives and providing facilities and services that are ancillary to or incidental to its functions.

Proposed section 35F confers on Sydney Ferries power to acquire land by agreement or by compulsory process under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Proposed section 35G makes it clear that the proposed Division does not limit the other functions of Sydney Ferries, but is subject to the SOC Act, the Principal Act and any other Act or law.

#### **Division 4 Management of Sydney Ferries**

Proposed section 35H provides for the appointment of a board of directors of Sydney Ferries by the Treasurer and a Minister nominated as a voting shareholder under the SOC Act (the *voting shareholders*). The voting shareholders are to consult with the portfolio Minister (currently the Minister for Transport Services). The board is to have not fewer than 3 and not more than 7 directors, of whom one is to be an employee representative. The others must have expertise necessary to realise Sydney Ferries' objectives (including maritime safety expertise and expertise in vessel operations).

Proposed section 35I provides for the chief executive officer of Sydney Ferries to be appointed by the board of Sydney Ferries after consultation with the voting shareholders and the portfolio Minister.

Proposed section 35J enables the board of Sydney Ferries to appoint an acting chief executive officer to act during the illness or absence of the chief executive officer of Sydney Ferries.

Proposed section 35K enables the Minister to give a direction to Sydney Ferries if the Minister decides it is warranted on grounds involving urgency or public safety. The Minister must consult with the Treasurer if the Minister considers that compliance with the direction may cause a significant variation in the approved financial outcomes of Sydney Ferries. This power is to be in addition to the powers to give directions under the SOC Act.

#### **Division 5 General**

Proposed section 35L makes the proposed Part the foundation charter of Sydney Ferries for the purposes of provisions of the SOC Act relating to the legal capacity of statutory State owned corporations and assumptions that they have complied with their foundation charter.

Proposed section 35M prohibits the portfolio Minister from being a shareholder of Sydney Ferries and limits the sale of shares in the Corporation to eligible Ministers under the SOC Act.

Proposed section 35N removes the obligation of Sydney Ferries to have a share dividend scheme as required by the SOC Act and enables the Treasurer to suspend the obligation of Sydney Ferries to pay tax-equivalents under the SOC Act.

Proposed section 35O requires the board of Sydney Ferries to prepare an annual statement of corporate intent. The board must consult with the portfolio Minister about its annual statement of corporate intent (in addition to consulting with the voting shareholders). The statement of corporate intent must include ferry service performance benchmarks agreed by the board and the portfolio Minister. They may be modified by the board with the agreement of the portfolio Minister after consultation with the Independent Transport Safety and Reliability Regulator. The board may modify the statement (other than the ferry service performance benchmarks) with the agreement of the voting shareholders, after consultation with the portfolio Minister, and may be directed by them to amend the statement (other than the ferry service performance benchmarks).

Proposed section 35P provides that fines and penalties for certain ferry-related offences are to be paid to Sydney Ferries.

Proposed section 35Q enables regulations to be made to confer on employees of Sydney Ferries rights to appeal to Transport Appeal Boards.

**Schedule 1 [1] and [10]** make amendments consequential on the amendment made by **Schedule 1 [7]**.

**Schedule 1 [2]** defines words and expressions used in provisions inserted or amended by the proposed Act.

**Schedule 1 [3]** limits the objectives of the STA to provide safe and reliable ferry services to ferry services provided in Newcastle Harbour (*Newcastle ferry services*), as a result of the function of providing Sydney ferry services being conferred on Sydney Ferries.

**Schedule 1 [4]** limits the functions of STA to operate ferry services to Newcastle ferry services. **Schedules 1 [5] and [6]** make consequential amendments.

**Schedule 1 [8]** requires Sydney Ferries to consult with the Director-General of the Ministry of Transport on a regular basis in connection with the provision and operation of its passenger services and before making any major changes, or initiating any major action, affecting passenger services.

**Schedule 1 [9]** enables the Independent Transport Safety and Reliability Regulator to monitor, audit and carry out other functions in relation to Sydney Ferries.

**Schedule 1 [12]** includes Sydney Ferries as an Authority for the purposes of provisions regulating the fixing of fares and other charges. **Schedule 1 [11]** makes a consequential amendment.

**Schedule 1 [13]** enables Sydney Ferries to fix charges (including fares) by order made by Sydney Ferries.

**Schedule 1 [14]** extends requirements relating to ferry accidents to Sydney Ferries.

**Schedule 1 [15]** inserts proposed Division 3A of Part 9 containing the following provisions:

**Division 3A Miscellaneous provisions relating to Sydney Ferries**

Proposed section 106B provides that Sydney Ferries is not a common carrier but does not prevent Sydney Ferries from accepting the risk and liability of a common carrier under a contract or arrangement for the carriage of passengers.

Proposed section 106C enables regulations to be made with respect to the ferry services operated by Sydney Ferries.

Proposed section 106D enables the Minister, by order in writing, to transfer assets, rights and liabilities of the STA to Sydney Ferries or the Crown. Schedule 4 to the Principal Act contains savings and transitional and other provisions applying to such a transfer.

**Schedule 1 [16]** applies provisions applying to the STA and relating to resolution of disputes between transport authorities, validating the exercise of functions in contravention of a Ministerial direction, enabling unpaid fees and charges to be recovered as debts, to Sydney Ferries.

**Schedule 1 [17]** applies provisions relating to the liability of the owner of a vehicle for a parking offence to offences committed on Sydney Ferries' land.

**Schedule 1 [18]** applies the provisions of Schedule 4 to the Principal Act to an order transferring assets, rights and liabilities under proposed section 106D. The effect of this is to vest those assets, rights and liabilities in the transferee and to apply savings and transitional provisions in respect of the transfer.

**Schedule 1 [19]** enables savings and transitional regulations to be made as a consequence of the proposed Act.

**Schedule 1 [20]** inserts savings and transitional provisions consequential on the enactment of the proposed Act.

**Schedule 2 Amendment of other Acts and instruments**

**Schedule 2.1** amends the *First State Superannuation Act 1992* to make Sydney Ferries an employer for the purposes of the superannuation scheme under that Act.

**Schedule 2.2** amends the *Impounding Regulation 2003* to include Sydney Ferries as an impounding authority under that Act.

**Schedule 2.3** amends the *Independent Pricing and Regulatory Tribunal Act 1992* to include Sydney Ferries as an agency for which the Independent Pricing and Regulatory Tribunal has a standing reference in relation to prices and other matters.

**Schedule 2.4** amends the *Local Government Act 1993* to include Sydney Ferries as a public body entitled to rate rebates.

**Schedule 2.5** amends the *Management of Waters and Waterside Lands Regulations—N.S.W.* to exempt Sydney Ferries' passengers from liability for offences relating to distances from naval vessels.

**Schedule 2.6** amends the *Passenger Transport Act 1990* to apply the Act to passenger services carried on by Sydney Ferries.

**Schedule 2.7** amends the *State Authorities Non-contributory Superannuation Act 1987* to make Sydney Ferries an employer for the purposes of the superannuation scheme under that Act.

**Schedule 2.8** amends the *State Authorities Superannuation Act 1987* to make Sydney Ferries an employer for the purposes of the superannuation scheme under that Act.

**Schedule 2.9** amends the *Superannuation Act 1916* to make Sydney Ferries an employer for the purposes of the superannuation scheme under that Act.

First print



New South Wales

# Transport Administration Amendment (Sydney Ferries) Bill 2003

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New South Wales

## **Transport Administration Amendment (Sydney Ferries) Bill 2003**

No. , 2003

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### **A Bill for**

An Act to amend the *Transport Administration Act 1988* to constitute Sydney Ferries as a statutory State owned corporation and to confer on it functions relating to the operation of Sydney ferry services; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Transport Administration Amendment (Sydney Ferries) Act 2003</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6 7
<b>3 Amendment of Acts and other instruments</b>	8
The Acts and instruments specified in Schedules 1 and 2 are amended as set out in those Schedules.	9 10

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<b>Schedule 1</b>	<b>Amendment of Transport Administration Act 1988 No 109</b>	1
		2
	(Section 3)	3
<b>[1]</b>	<b>Long title</b>	4
	Insert “, Sydney Ferries” before “and the Roads and Traffic Authority”.	5
<b>[2]</b>	<b>Section 3 Definitions</b>	6
	Insert in alphabetical order in section 3 (1):	7
	<i>Newcastle ferry services</i> means ferry services provided in Newcastle Harbour.	8
	<i>Sydney Ferries</i> means Sydney Ferries constituted under this Act.	9
	<i>Sydney ferry services</i> means ferry services provided in Sydney Harbour or the Parramatta River.	10
		11
<b>[3]</b>	<b>Section 20A Objectives of STA</b>	12
	Omit “bus and ferry services” from section 20A (1) (a).	13
	Insert instead “bus services and Newcastle ferry services”.	14
<b>[4]</b>	<b>Section 22 Newcastle ferry services</b>	15
	Insert “Newcastle” before “ferry services” in section 22 (1).	16
<b>[5]</b>	<b>Section 22 (2)</b>	17
	Omit the subsection. Insert instead:	18
	(2) The State Transit Authority is to continue to operate the Newcastle ferry services which were provided by the Authority immediately before the commencement of this subsection, as substituted by the <i>Transport Administration Amendment (Sydney Ferries) Act 2003</i> .	19
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<b>[6]</b>	<b>Section 22 (3)</b>	26
	Insert “Newcastle” before “ferry” wherever occurring.	27

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<b>[7] Part 3A</b>	1
Insert after Part 3:	2
<b>Part 3A Sydney Ferries</b>	3
<b>Division 1 Constitution of Sydney Ferries as statutory SOC</b>	4 5
<b>35A Establishment of Sydney Ferries as statutory State owned corporation</b>	6 7
(1) There is constituted by this Act a corporation with the corporate name of Sydney Ferries.	8 9
(2) The <i>State Owned Corporations Act 1989</i> is amended by inserting in Schedule 5, in alphabetical order, the words “Sydney Ferries”.	10 11 12
<b>Note.</b> The <i>State Owned Corporations Act 1989</i> contains many provisions that apply to Sydney Ferries as a statutory State owned corporation. In particular, Part 3 contains provisions relating to their status, the application of the <i>Corporations Act 2001</i> of the Commonwealth, the issue of shares to the Treasurer and another Minister, the board of directors, the chief executive officer, the employment of staff, the giving of directions by the portfolio Minister (including directions as to the performance of non-commercial activities or the carrying out of public sector policies), the memorandum and articles, tax-equivalent payments, government guarantees, the sale or disposal of assets and legal capacity. Part 4 deals with the accountability of State owned corporations (including annual reports and accounts). Part 5 deals with miscellaneous matters (including the duties and liabilities of directors and the application of public sector legislation).	13 14 15 16 17 18 19 20 21 22 23 24 25 26
<b>Division 2 Objectives of Sydney Ferries</b>	27
<b>35B Objectives of Sydney Ferries</b>	28
(1) The principal objective of Sydney Ferries is to deliver safe and reliable Sydney ferry services in an efficient, effective and financially responsible manner.	29 30 31
(2) The other objectives of Sydney Ferries are as follows:	32
(a) to be a successful business and, to that end:	33
(i) to operate at least as efficiently as any comparable business,	34 35
(ii) to maximise the net worth of the State’s investment in Sydney Ferries,	36 37

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- (b) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates, 1  
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- (c) where its activities affect the environment, to conduct its operations in compliance with the principles of ecologically sustainable development contained in section 6 (2) of the *Protection of the Environment Administration Act 1991*, 4  
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- (d) to exhibit a sense of responsibility towards regional development and decentralisation in the way in which it operates. 9  
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- (3) The other objectives of Sydney Ferries are of equal importance, but are not as important as the principal objective of the corporation. 12  
13  
14
- (4) Section 20E of the *State Owned Corporations Act 1989* does not apply to Sydney Ferries. 15  
16

**Division 3 Functions of Sydney Ferries** 17

**35C Sydney ferry services** 18

- (1) Sydney Ferries is to operate Sydney ferry services. 19
- (2) Sydney Ferries is to continue to operate the Sydney ferry services which were provided by the State Transit Authority immediately before the commencement of this section. 20  
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22
- (3) Subsection (2) does not limit the power of Sydney Ferries: 23
- (a) to establish any new Sydney ferry service, or 24
- (b) to alter or discontinue any of its Sydney ferry services. 25
- (4) The operation of a ferry service by Sydney Ferries is subject to the requirements of the *Passenger Transport Act 1990*. 26  
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**35D Other transport services** 28

Sydney Ferries may operate other transport services, including bus services, whether or not in connection with its ferry services. 29  
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**35E Other functions of Sydney Ferries** 32

- (1) Sydney Ferries has the functions conferred or imposed on it by or under this or any other Act. 33  
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- (2) Sydney Ferries may: 1
  - (a) conduct any business (whether or not related to its 2 functions) that it considers will further its objectives, 3 and 4
  - (b) provide facilities or services that are ancillary to or 5 incidental to its functions. 6
  
- 35F Acquisition of land by Sydney Ferries 7**
  - (1) Sydney Ferries may, for any purposes of Sydney Ferries, 8 acquire land (including an interest in land) by agreement or by 9 compulsory process in accordance with the *Land Acquisition* 10 (*Just Terms Compensation*) Act 1991. 11
  - (2) The other purposes for which land may be acquired under 12 subsection (1) include for the purposes of a future sale, lease 13 or disposal, that is, to enable Sydney Ferries to exercise its 14 functions in relation to land under this Act. 15
  - (3) For the purposes of the *Public Works Act 1912*, any such 16 acquisition of land is taken to be an authorised work and 17 Sydney Ferries is, in relation to that authorised work, taken to 18 be the Constructing Authority. 19
  - (4) Sydney Ferries may not give a proposed acquisition notice 20 under the *Land Acquisition (Just Terms Compensation)* 21 *Act 1991* without the approval of the portfolio Minister. 22
  - (5) Any such acquisition is not void merely because it is 23 expressed to be for the purposes of Sydney Ferries or for the 24 purposes of this Act. 25
  - (6) Part 3 of the *Public Works Act 1912* does not apply in respect 26 of works constructed for the purposes of this section. 27
  
- 35G Effect of Division 28**

This Division does not limit the functions of Sydney Ferries 29 apart from this Division, but is subject to the provisions of the 30 *State Owned Corporations Act 1989*, this Act and any other 31 Act or law. 32

**Division 4      Management of Sydney Ferries** 1

**35H   Board of directors of Sydney Ferries** 2

- (1) The board of directors of Sydney Ferries is to be appointed by the voting shareholders. The voting shareholders are to consult with the portfolio Minister on the persons recommended for appointment as directors. 3  
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- (2) The board is to consist of not fewer than 3 and not more than 7 directors. 7  
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- (3) One director of the board is to be a person recommended by a selection committee comprising: 9  
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  - (a) 2 persons nominated by the portfolio Minister, and 11
  - (b) 2 persons nominated by the Labor Council of New South Wales, 12  
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being a person selected by the committee from a panel of 3 persons nominated by the Labor Council. 14  
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- (4) The members of the selection committee and the nominees of the Labor Council for the panel are to be representatives of industrial organisations of employees that have members employed in the public sector of the ferry service industry. 16  
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- (5) The procedures for constituting a selection committee for the purposes of subsection (3), for making nominations and for determining other matters relating to the selection process are to be determined by the regulations or (subject to the regulations) by the voting shareholders. 20  
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- (6) The other directors of the board must each or together have such expertise (including maritime safety expertise and expertise in vessel operations) as the voting shareholders, after consultation with the portfolio Minister, consider necessary in order to realise the objectives of Sydney Ferries. 25  
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- (7) Subject to subsection (8), section 20J of and Schedule 8 to the *State Owned Corporations Act 1989* have effect with respect to the board of Sydney Ferries and its constitution and procedure. 30  
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32  
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- (8) Section 20J (2), (3) and (4) of, and clause 4 of Schedule 8 to, the *State Owned Corporations Act 1989* do not apply with respect to the board of Sydney Ferries. 34  
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<b>35I Chief executive officer</b>	1
(1) The chief executive officer of Sydney Ferries is to be appointed by the board of Sydney Ferries after consultation with the voting shareholders and the portfolio Minister.	2 3 4
(2) The chief executive officer is to hold office for the period (not exceeding 5 years) that is specified in the chief executive officer's instrument of appointment.	5 6 7
(3) The board may remove a person from office as chief executive officer, at any time, for any or no reason and without notice, but only after consultation with the voting shareholders and the portfolio Minister.	8 9 10 11
(4) The chief executive officer is entitled to be paid such remuneration (including travelling and subsistence allowances) as the board may determine after consultation with the voting shareholders.	12 13 14 15
(5) The board may, after consultation with the voting shareholders, fix the conditions of employment of the chief executive officer in so far as they are not fixed by or under any other Act or law.	16 17 18 19
(6) The contract of employment of the chief executive officer must include performance criteria for the purpose of reviews of the chief executive officer's performance.	20 21 22
(7) The board must require the chief executive officer to enter into a performance agreement and must review the chief executive officer's performance at least annually.	23 24 25
(8) The <i>Public Sector Employment and Management Act 2002</i> (Chapter 5 included) does not apply to the chief executive officer.	26 27 28
(9) The provisions of section 20K (2) and (4) of, and Schedule 9 to, the <i>State Owned Corporations Act 1989</i> do not apply to or in respect of the chief executive officer.	29 30 31
(10) The provisions of this section are in addition to and (except to the extent to which this section provides) do not derogate from the provisions of the <i>State Owned Corporations Act 1989</i> .	32 33 34 35

<b>35J</b>	<b>Acting chief executive officer</b>	1
(1)	The board of Sydney Ferries may, from time to time, appoint a person to act in the office of chief executive officer during the illness or absence of the chief executive officer of Sydney Ferries.	2 3 4 5
(2)	The board may remove a person from office as acting chief executive officer, at any time, for any or no reason and without notice.	6 7 8
(3)	A person, while acting in the office of chief executive officer:	9
(a)	has all the functions of the chief executive officer and is taken to be the chief executive officer, and	10 11
(b)	is entitled to be paid such remuneration (including travelling and subsistence allowances) as the board may determine.	12 13 14
(4)	For the purposes of this section, a vacancy in the office of chief executive officer is regarded as an absence from office of the chief executive officer.	15 16 17
(5)	The board is not to appoint a person to act in the office of chief executive officer during any vacancy in that office without the concurrence of the voting shareholders and the portfolio Minister.	18 19 20 21
(6)	The provisions of this section are in addition to and (except to the extent to which this section provides) do not derogate from the provisions of the <i>State Owned Corporations Act 1989</i> .	22 23 24 25
<b>35K</b>	<b>Ministerial directions</b>	26
(1)	The Minister may give the board of Sydney Ferries a written direction in relation to Sydney Ferries' functions if the Minister decides that this action is warranted on grounds involving urgency or public safety.	27 28 29 30
(2)	The board of directors and the chief executive officer of Sydney Ferries must ensure that Sydney Ferries complies with any such direction.	31 32 33
(3)	Section 20P (4)–(6) of the <i>State Owned Corporations Act 1989</i> apply to a direction given under this section in the same way as they apply to a direction given under section 20P of that Act.	34 35 36 37



(4)	If the Minister considers that compliance with the direction may cause a significant variation in the approved financial outcomes of Sydney Ferries, the direction must be given in consultation with the Treasurer.	1 2 3 4
(5)	The Minister’s power to give directions to Sydney Ferries under this section is in addition to any power of the Minister to give directions under section 20N, 20O or 20P of the <i>State Owned Corporations Act 1989</i> . Except as provided by subsection (3), those sections of that Act do not apply to a direction of the Minister if the direction states that it is being given under this section.	5 6 7 8 9 10 11
<b>Division 5      General</b>		12
<b>35L</b>	<b>Foundation charter of Sydney Ferries</b>	13
	For the purposes of the <i>State Owned Corporations Act 1989</i> , the foundation charter of Sydney Ferries is this Part of this Act (but not the remainder of this Act).	14 15 16
	<b>Note.</b> Section 3 of the <i>State Owned Corporations Act 1989</i> defines the foundation charter of a statutory SOC as the whole of any Act by which a SOC is established for the purposes of the SOC Act and, in particular, for the purpose of the provisions relating to the legal capacity of statutory SOCs and assumptions that they have complied with that Act and their foundation charter.	17 18 19 20 21 22
<b>35M</b>	<b>Restrictions relating to shareholdings</b>	23
(1)	The portfolio Minister of Sydney Ferries must not be, and is not eligible for nomination as, a shareholder of Sydney Ferries. However, the portfolio Minister may attend meetings of the shareholders of Sydney Ferries.	24 25 26 27
(2)	Shares in Sydney Ferries may not be sold or otherwise disposed of except to eligible Ministers.	28 29
<b>35N</b>	<b>Dividends and tax-equivalents</b>	30
(1)	Section 20S of the <i>State Owned Corporations Act 1989</i> does not apply to Sydney Ferries.	31 32
(2)	The Treasurer may, by notice in writing to Sydney Ferries, suspend the obligation of Sydney Ferries, or any subsidiary of Sydney Ferries, to pay amounts under section 20T of the <i>State Owned Corporations Act 1989</i> , either generally or for a specified period.	33 34 35 36 37

- (3) A suspension under subsection (2) may be subject to conditions and may be revoked or varied by the Treasurer. 1  
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**350 Statement of corporate intent** 3

- (1) The board of Sydney Ferries must prepare and submit to the voting shareholders and portfolio Minister a draft written statement of corporate intent not later than one month after the commencement of each financial year of the corporation. 4  
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- (2) The statement of corporate intent must include: 8
  - (a) performance benchmarks for the ferry services provided by Sydney Ferries, as agreed by the board and the portfolio Minister, and included in a performance agreement between the Minister and Sydney Ferries, and 9  
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  - (b) financial and any other performance benchmarks, as agreed by the board and the voting shareholders after consultation with the portfolio Minister. 14  
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- (3) The board must consider any comments on the draft statement of corporate intent that are made to it by the voting shareholders or the portfolio Minister within 2 months after the commencement of the financial year of Sydney Ferries. 17  
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- (4) The board must consult in good faith with the voting shareholders and the portfolio Minister following communication to it of the comments, make such changes to the statement: 21  
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  - (a) in relation to the performance benchmarks agreed under subsection (2) (a) (the *ferry service performance benchmarks*), as are agreed between the board and the portfolio Minister, and 25  
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  - (b) in relation to the remainder of the statement, as are agreed between the board and the voting shareholders, 29  
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and deliver the completed written statement to the voting shareholders and portfolio Minister within 3 months after the commencement of the financial year. 31  
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- (5) The statement may not, before it is laid before both Houses of Parliament, be published or made available to the public without the prior approval of the board and the voting shareholders. 34  
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Transport Administration Amendment (Sydney Ferries) Bill 2003

Schedule 1 Amendment of Transport Administration Act 1988 No 109

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- (6) The statement, other than the ferry service performance benchmarks, may be modified at any time by the board with the agreement of the voting shareholders after consultation with the portfolio Minister. 1  
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- (7) The ferry service performance benchmarks may be modified at any time by the board with the agreement of the portfolio Minister after consultation with the Independent Transport Safety and Reliability Regulator. 5  
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- (8) If the board, by written notice to the voting shareholders and the portfolio Minister, proposes a modification of the statement (other than the ferry service performance benchmarks), the board may, within 14 days, make the modification unless the voting shareholders, by written notice to the board, direct the board not to make it. 9  
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- (9) The voting shareholders may, from time to time, by written notice to the board, direct the board to include in, or omit from, a statement of corporate intent any specified matters, other than matters relating to the ferry service performance benchmarks. 15  
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- (10) Before giving a direction under this section, the voting shareholders are to consult with the portfolio Minister and the board as to the matters to be referred to in the notice. 20  
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- (11) Sydney Ferries is required to comply with any such direction. 23
- (12) At any particular time, the statement of corporate intent for Sydney Ferries is the completed statement, with any modifications or deletions made in accordance with this section or Part 4 of the *State Owned Corporations Act 1989*. 24  
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- (13) The *State Owned Corporations Act 1989* (other than section 21 of that Act) applies to a statement of corporate intent for Sydney Ferries in the same way that it applies to a statement of corporate intent under that Act. 28  
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<b>35P</b>	<b>Payments to Sydney Ferries</b>	1
	All fines and penalties recovered for offences under the regulations under section 104, or under regulations under section 63 of the <i>Passenger Transport Act 1990</i> in connection with ferry services operated by Sydney Ferries (but only if proceedings or penalty notices for the offences were instituted or issued by Sydney Ferries or an employee of Sydney Ferries), must be paid to Sydney Ferries.	2 3 4 5 6 7 8
<b>35Q</b>	<b>Appeals to Transport Appeal Boards</b>	9
	(1) Regulations made under section 20M of the <i>State Owned Corporations Act 1989</i> with respect to the staff of Sydney Ferries may provide for appeals by members of staff in connection with their employment to a Transport Appeal Board constituted under the <i>Transport Appeal Boards Act 1980</i> .	10 11 12 13 14 15
	(2) This section does not limit the operation of section 20M of the <i>State Owned Corporations Act 1989</i> .	16 17
<b>[8]</b>	<b>Section 38 Functions of ensuring provision of appropriate passenger services</b>	18 19
	Insert “or Sydney Ferries” after “State Transit Authority” in section 38 (3).	20
<b>[9]</b>	<b>Section 42A Definitions [as inserted by the Transport Legislation Amendment (Safety and Reliability) Act 2003]</b>	21 22
	Insert after paragraph (b) of the definition of <i>transport authority</i> :	23
	(b1) Sydney Ferries, or	24
<b>[10]</b>	<b>Section 74 Payments into State Transit Authority Fund</b>	25
	Omit “bus or ferry services” from section 74 (c).	26
	Insert instead “bus services or Newcastle ferry services”.	27
<b>[11]</b>	<b>Part 8, Division 5, heading</b>	28
	Insert “, Sydney Ferries” before “and State Transit Authority”.	29

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<b>[12]</b>	<b>Section 84 Definitions [as amended by the Transport Administration Amendment (Rail Agencies) Act 2003]</b>	1 2
	Insert “, Sydney Ferries” after “State Transit Authority” in the definition of <i>Authority</i> .	3 4
<b>[13]</b>	<b>Section 85 Orders fixing charges</b>	5
	Insert after section 85 (2):	6
	(2A) The charges to be demanded by Sydney Ferries in respect of its ferry services or for any other purpose are to be as from time to time determined by order made by Sydney Ferries.	7 8 9
<b>[14]</b>	<b>Section 103 Inquiries into bus or ferry accidents</b>	10
	Insert “or Sydney Ferries” after “State Transit Authority” wherever occurring.	11 12
<b>[15]</b>	<b>Part 9, Division 3A</b>	13
	Insert after Division 3:	14
	<b>Division 3A Miscellaneous provisions relating to Sydney Ferries</b>	15 16
	<b>106B Sydney Ferries not a common carrier</b>	17
	(1) Sydney Ferries is not a common carrier.	18
	(2) Subsection (1) does not affect any contract or arrangement for the carriage of passengers between Sydney Ferries and any other person in which Sydney Ferries accepts the risk and liability of a common carrier.	19 20 21 22
	<b>106C Regulations relating to Sydney ferry services</b>	23
	(1) The regulations may make provision for or with respect to ferry services provided by Sydney Ferries.	24 25
	(2) In particular, the regulations may make provision for or with respect to the following matters:	26 27
	(a) the terms and conditions on which passengers are carried,	28 29
	(b) the use of and access to facilities or property owned by or under the control of Sydney Ferries,	30 31

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	(c) the protection and preservation of facilities or property owned by or under the control of Sydney Ferries,	1 2
	(d) security, safety and order on ferries,	3
	(e) the sale or other disposal of unclaimed goods and luggage in the possession of Sydney Ferries and the disposal of the proceeds of any such sale,	4 5 6
	(f) the standing or parking of vehicles on land vested in Sydney Ferries.	7 8
<b>106D</b>	<b>Transfer of certain assets, rights and liabilities of STA to Sydney Ferries</b>	9 10
	(1) The Minister may, by order in writing, direct that the assets, rights and liabilities of the State Transit Authority, or any subsidiary of the Authority, that are specified or referred to in the order, be transferred to Sydney Ferries or to the Crown.	11 12 13 14
	(2) An order under this section may be subject to specified terms and conditions.	15 16
	(3) Schedule 4 applies to the transfer of assets, rights and liabilities under this section.	17 18
	(4) Words and expressions used in this section have the same meanings as they have in Schedule 4.	19 20
<b>[16]</b>	<b>Section 107 Definition of “transport authority” [as amended by the Transport Administration Amendment (Rail Agencies) Act 2003]</b>	21 22
	Insert after section 107 (2):	23
	(3) In sections 111, 113 and 115, a reference to a transport authority includes a reference to Sydney Ferries.	24 25
<b>[17]</b>	<b>Section 116 Liability of vehicle owner for parking offences on Authority’s land</b>	26 27
	Insert “, Sydney Ferries” before “or the State Transit Authority” in the definition of <i>parking offence</i> in section 116 (7).	28 29

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<b>[18] Schedule 4 Transfer of assets, rights and liabilities</b>	1
Insert after clause 2 (1) (d):	2
(d1) an order under section 106D transferring assets, rights or liabilities of the State Transit Authority, or a subsidiary of the Authority, to Sydney Ferries or the Crown,	3 4 5 6
<b>[19] Schedule 7 Savings, transitional and other provisions</b>	7
Insert at the end of clause 2 (1):	8
<i>Transport Administration Amendment (Sydney Ferries) Act 2003</i>	9 10
<b>[20] Schedule 7</b>	11
Insert in appropriate order with appropriate Part and clause numbers:	12
<b>Part Provisions consequent on enactment of Transport Administration Amendment (Sydney Ferries) Act 2003</b>	13 14 15
<b>Definition</b>	16
In this Part:	17
<i>the amending Act</i> means the <i>Transport Administration Amendment (Sydney Ferries) Act 2003</i> .	18 19
<b>Sydney Ferries may act as agent of STA</b>	20
For the purposes of giving effect to a transfer of assets, rights or liabilities to Sydney Ferries under this Act (as amended by the amending Act) Sydney Ferries may act as the agent of the State Transit Authority.	21 22 23 24
<b>STA may enter into arrangements for joint facilities and other matters</b>	25 26
(1) For the purposes of giving effect to the amending Act, the State Transit Authority or Sydney Ferries may make and enter into contracts, leases, licences or other arrangements with each other or any other person with respect to the provision of services or the supply of goods jointly to the Authority and Sydney Ferries or to Sydney Ferries.	27 28 29 30 31 32

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(2) Any such contract, lease, licence or other arrangement may apply to the provision of services or the supply of goods by either the State Transit Authority or Sydney Ferries or by any other person.	1 2 3 4
(3) Any such contract, lease, licence or other arrangement may be entered into, and has effect, despite any requirement for consent under any other contract, lease, licence or arrangement between the State Transit Authority and any other person.	5 6 7 8 9
(4) The operation of this clause is not to be regarded:	10
(a) as a breach of a contract or confidence or otherwise as a civil wrong, or	11 12
(b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment of assets, rights or liabilities, or	13 14 15
(c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument.	16 17 18
(5) Nothing in this clause limits any other power of the State Transit Authority or Sydney Ferries to enter into any contract, lease, licence or other arrangement with any other person.	19 20 21
<b>Orders fixing fares and travel terms and conditions</b>	22
An order made by the State Transit Authority under section 85 applying to charges for Sydney ferry services, and in force immediately before the commencement of this clause, is taken to have been made by Sydney Ferries under that section and that section applies accordingly.	23 24 25 26 27
<b>Saving of existing free or concessional travel arrangements</b>	28
Any free or concessional travel pass issued by the State Transit Authority under section 88 before the commencement of this clause, and in force in relation to Sydney ferry services immediately before that commencement, is taken to have been issued by Sydney Ferries and that section applies accordingly.	29 30 31 32 33 34

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**Saving of tickets**

Any ticket issued by or on behalf of the State Transit Authority for a Sydney ferry service, and valid immediately before the commencement of this clause, is taken to have been issued by Sydney Ferries and continues (if otherwise valid) to be a valid ticket.

**Application of regulations**

- (1) A regulation made under section 104, and in force immediately before the commencement of this clause:
  - (a) is taken to have also been made under section 106C, and
  - (b) applies to or in respect of Sydney Ferries in the same way that it applies to or in respect of the State Transit Authority.
- (2) Nothing in this clause prevents the amendment or repeal of any such regulation.

**Penalty notices**

Nothing in the amending Act affects the validity of a penalty notice (whether under this or any other Act or law) issued by or on behalf of the State Transit Authority immediately before the commencement of this clause.

**References to State Transit Authority**

- (1) Except as provided by the regulations, a reference in any Act, in any instrument made under any Act or in any document of any kind to the State Transit Authority is, to the extent that it relates to any act, matter or thing relating to the provision of Sydney ferry services, to be read as or including a reference to Sydney Ferries.
- (2) This clause has effect subject to any transfers of assets, rights or liabilities under this Act.

<b>IPART determinations</b>	1
(1) For the purposes of the <i>Independent Pricing and Regulatory Tribunal Act 1992</i> , a determination of the pricing for ferry services provided by the State Transit Authority, in force immediately before the commencement of this clause, extends to Sydney ferry services operated by Sydney Ferries.	2 3 4 5 6
(2) Nothing in this clause prevents any such determination from being replaced, or a further determination being issued for Sydney Ferries.	7 8 9
<b>Timetable for first statement of corporate intent</b>	10
A period within which any matter is required to be done under this Act in relation to a statement of corporate intent, in connection with the first statement of corporate intent of Sydney Ferries, may be extended by the voting shareholders of Sydney Ferries.	11 12 13 14 15
<b>Transfer of staff from STA to Sydney Ferries</b>	16
(1) The Minister may, by order in writing, provide that the State Transit Authority staff specified in the order are transferred to Sydney Ferries.	17 18 19
(2) A person who is the subject of an order under this clause is taken for all purposes as having become an employee of Sydney Ferries, in accordance with the terms of the order, on the day specified in the order.	20 21 22 23
(3) Clauses 12, 13, 14 and 15 of Schedule 6 apply to or in respect of the transfer of State Transit Authority staff to Sydney Ferries under this clause in the same way as they apply to or in respect of the transfer of State Transit Authority staff to another transport authority.	24 25 26 27 28
<b>Customer service contracts and exemptions</b>	29
(1) Any exemption in force immediately before the commencement of this clause of the State Transit Authority, under the <i>Passenger Transport Act 1990</i> , from the requirements of section 16 (1) and (3) of that Act is taken to apply also to Sydney Ferries in respect of the kinds of regular passenger services subject to the exemption immediately before the commencement of Part 3A.	30 31 32 33 34 35 36

- (2) Nothing in this clause prevents the exemption from being varied or revoked. 1  
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**Licences and other authorisations under certain Acts** 3

- (1) This clause applies to a licence, permit, approval or other authorisation granted to the State Transit Authority under any of the following Acts or under a regulation under any of those Acts, and in force immediately before the commencement of this clause: 4  
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(a) *Commercial Vessels Act 1979*, 9

(b) *Dangerous Goods Act 1975*, 10

(c) *Protection of the Environment Operations Act 1997*, 11

(d) any other Act prescribed by the regulations. 12

- (2) An authorisation is, to the extent that it relates to former STA functions, taken to be held by Sydney Ferries on the same terms and conditions as the State Transit Authority held the authorisation immediately before the commencement of this clause. 13  
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- (3) The regulations may exempt an authorisation from the operation of this clause. 18  
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- (4) Nothing in this clause prevents an authorisation from being varied, cancelled or replaced. 20  
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- (5) In this clause: 22

***former STA function*** means a function conferred on Sydney Ferries by Part 3A that was, immediately before the commencement of that Part, conferred on the State Transit Authority. 23  
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<b>Schedule 2 Amendment of other Acts and instruments</b>	1
(Section 3)	2
<b>2.1 First State Superannuation Act 1992 No 100</b>	3
<b>Schedule 1 Employers</b>	4
Insert at the end of the Schedule:	5
Sydney Ferries	6
<b>2.2 Impounding Regulation 2003</b>	7
<b>Clause 5 Impounding authorities</b>	8
Insert after the matter relating to the State Transit Authority in the Table to the clause:	9
Sydney Ferries	10
All land vested in Sydney Ferries	
<b>2.3 Independent Pricing and Regulatory Tribunal Act 1992 No 39</b>	11
<b>Schedule 1 Government agencies for which Tribunal has standing reference</b>	12
Insert at the end of the Schedule:	13
Sydney Ferries	14
<b>2.4 Local Government Act 1993 No 30</b>	15
<b>Section 600 Rebates in respect of certain land vested in public bodies</b>	16
Insert “, Sydney Ferries” before “and the State Transit Authority” in the definition of <i>public body</i> in section 600 (9).	17
<b>2.5 Management of Waters and Waterside Lands Regulations—N.S.W.</b>	18
<b>Regulation 8 Security of navigation aids, vessels and installations</b>	19
Insert “or Sydney Ferries” after “State Transit Authority” in regulation 8 (4) (b).	20
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<b>2.6 Passenger Transport Act 1990 No 39</b>	1
<b>Section 5 Crown bound by Act</b>	2
Insert “Sydney Ferries,” before “the State Transit Authority” in section 5 (2).	3 4
<b>2.7 State Authorities Non-contributory Superannuation Act 1987 No 212</b>	5 6
<b>Schedule 1 Employers</b>	7
Insert at the end of Part 1: Sydney Ferries	8 9
<b>2.8 State Authorities Superannuation Act 1987 No 211</b>	10
<b>Schedule 1 Employers</b>	11
Insert at the end of Part 1: Sydney Ferries	12 13
<b>2.9 Superannuation Act 1916 No 28</b>	14
<b>Schedule 3 List of employers</b>	15
Insert at the end of Part 1: Sydney Ferries	16 17