

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the Transport Administration Act 1988 to facilitate the development, implementation and operation of metro railway systems by constituting Sydney Metro, a statutory authority having the function of developing metro railway systems and other related functions, and to provide generally for its management and functions.

The Bill also makes consequential amendments to other Acts.

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 Transport Administration Act 1988 (the Transport Act) set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the other Acts set out in Schedule 2.

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Clause 5 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the Interpretation Act 1987 provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Transport Administration Act 1988

Schedule 1 [1] amends the long title to the Transport Act to include a reference to Sydney Metro.

Schedule 1 [2] amends section 3 of the Transport Act to insert definitions of metro railway and metro railway system.

Schedule 1 [3] amends section 3 of the Transport Act to exclude metro railway systems from being included in the NSW rail network for the purposes of that Act. The effect of this is that provisions relating to access to the NSW rail network and network control will not apply to metro railway systems.

Schedule 1 [4] amends section 3 of the Transport Act to include Sydney Metro as a rail infrastructure owner in relation to rail infrastructure that it manages or controls for the purpose of exercising its functions under that Act. It will also be a rail infrastructure owner in relation to rail infrastructure that is vested in it.

Schedule 1 [5] amends section 3 of the Transport Act to insert a definition of Sydney Metro.

Schedule 1 [6] amends section 3A of the Transport Act to make a consequential amendment.

Schedule 1 [7] inserts proposed Part 6A (Sydney Metro) into the Transport Act.

Proposed Division 1 of Part 6A (proposed section 55A) defines words and expressions used in the proposed Part, including the expression develop a metro railway system. That term includes carrying out development for the purposes of a metro railway system, facilitating, managing, financing or maintaining such a system and ancillary functions.

Proposed Division 2 of Part 6A (proposed section 55B) constitutes Sydney Metro as a corporation that is a NSW Government agency. Its staff will be employed under Chapter 1A of the Public Sector Employment and Management Act 2002.

Proposed Division 3 of Part 6A (proposed sections 55C–55E) confers functions on Sydney Metro. The functions include developing metro railway systems, holding, managing and maintaining rail infrastructure facilities for metro railways and

entering into arrangements with other persons for the provision of metro railway passenger services, the operation of metro railway systems or the development, management and control or maintenance of metro railway systems and charging fees or making arrangements for fares for metro railway passenger services. The proposed Explanatory note page 3

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Division also enables Sydney Metro to prepare station plans for development around metro railway stations and gives it power to acquire land by agreement or compulsory process.

Proposed Division 4 of Part 6A (proposed sections 55F–55P) contains provisions relating to the management of Sydney Metro, similar to those applicable to other statutory corporations under the Transport Act. There is to be a Sydney Metro Board, comprising the Chief Executive Officer, 3 members appointed by the Minister for Transport and 1 member appointed on the nomination of the Treasurer, which is to determine the policies of Sydney Metro. The Chief Executive Officer is to manage and control the affairs of Sydney Metro in accordance with the policies of the Sydney Metro Board and the Minister may give written directions to the Sydney Metro Board in relation to the exercise of Sydney Metro's functions. Sydney Metro must prepare a corporate plan for each financial year and provide it to the Minister, as well as make it available for public comment, before it is finalised. Sydney Metro may also exercise functions through a subsidiary corporation or in a partnership, joint venture or other association with other persons or bodies. The proposed Division also provides for the creation of public subsidiary corporations of Sydney Metro and sets out conditions on which Sydney Metro may create private subsidiary corporations. Sydney Metro may also delegate its functions.

Proposed Division 5 of Part 6A (proposed sections 55Q–55S) contains various provisions. It makes it an offence for a person to use commercial information gained in the administration or execution of the proposed Part for the person's own advantage or the advantage of a spouse, de facto partner, relative or associate. The proposed Division also contains a provision that authorises agreements entered into by Sydney Metro, or approved by it, relating to metro railway systems and related conduct, as agreements or conduct that will not be a contravention of Part IV (Restrictive trade practices) of the Trade Practices Act 1974 of the Commonwealth or the Competition Code of New South Wales. The proposed Division also provides that the consent of a council that is the relevant roads authority will not be required for works done by Sydney Metro in relation to a classified road for the purpose of exercising its functions under the Transport Act, although consent by the Roads and Traffic Authority will be required.

Schedule 1 [9] amends section 56 of the Transport Act to apply the provisions of that Act relating to staff of transport authorities (including entitlements to long service leave) to the staff of Sydney Metro. Schedule 1 [8] makes a consequential amendment.

Schedule 1 [10] inserts proposed Division 2A of Part 8 (proposed sections 76A–76C). The proposed Division establishes the Sydney Metro Fund and makes provision for payments to and from that Fund in connection with the funding and functions of Sydney Metro.

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Schedule 1 [11] amends section 89 of the Transport Act to apply miscellaneous provisions of that Act that apply to other rail authorities, such as RailCorp, to Sydney Metro. The provisions include a provision limiting the compensation payable by a rail authority, a provision enabling the Minister to transfer assets, rights and

liabilities of a rail authority, a provision enabling a person to be a member of a board of more than one rail authority, provisions conferring rights and obligations in relation to rail infrastructure and a provision enabling the Minister to delegate functions to the chief executive officer of a rail authority.

Schedule 1 [12] amends section 89 of the Transport Act to omit a redundant definition.

Schedule 1 [13] amends section 89 of the Transport Act to apply miscellaneous provisions of that Act that apply to State rail operators, such as RailCorp, to Sydney Metro. The provisions include a provision enabling regulations to be made about matters such as safety and security and parking offences on State rail operator land and a provision conferring enforcement and investigation powers on authorised officers of State rail operators.

Schedule 1 [14] amends section 94 of the Transport Act to include local councils in the public authorities to which assets, rights and liabilities of rail authorities may be transferred by Ministerial order.

Schedule 1 [15] amends section 99A of the Transport Act to exclude Sydney Metro from the prohibition on the closure of railway lines other than with the authorisation of an Act of Parliament.

Schedule 1 [16] amends section 107 of the Transport Act to apply miscellaneous provisions of that Act that apply to other transport authorities, such as the State Transit Authority, to Sydney Metro. The provisions include provisions relating to the seal of the authority, a provision conferring contractual powers, a provision relating to liability, a provision validating acts done by an authority that contravene a Ministerial direction and a provision enabling charges and fees to be recovered in civil debt proceedings.

Schedule 1 [17] amends section 112 of the Transport Act to make it clear that the exclusion from personal liability extends to omissions.

Schedule 1 [18] and [19] amend section 112 of the Transport Act to extend the protection from personal liability conferred by that section to the Chief Executive Officer of Sydney Metro and to members of the Sydney Metro Board.

Schedule 1 [20] amends section 116 of the Transport Act to extend the provisions that make the owner of a vehicle used in a parking offence guilty of a parking offence (whether or not the owner committed the actual offence) to parking offences committed on land vested in Sydney Metro.

Schedule 1 [21] inserts proposed Schedule 2B into the Transport Act. The proposed Schedule contains machinery provisions relating to the constitution and procedure, and the Chief Executive Officer, of Sydney Metro.

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Schedule 1 [22] and [23] amend Schedule 4 to the Transport Act to make it clear that orders transferring the assets, rights and liabilities of transport authorities include assets, rights and liabilities that may or may not be personal or assignable.

Schedule 1 [24] amends Schedule 4 to the Transport Act to make it clear that entitlements and obligations in relation to transferred assets, rights and liabilities, that would have been those of the transferor and that arise after the transfer, are also transferred to the transferee when a transfer order to which that Schedule applies is made, whether or not they are actual or potential when the order takes effect.

Schedule 1 [25] amends Schedule 5 to the Transport Act as a consequence of the application of provisions relating to long service leave to the staff of Sydney Metro.

Schedule 1 [26] amends Schedule 6A to the Transport Act to include Sydney Metro as a rail infrastructure owner in relation to rail infrastructure that it manages or controls for the purpose of exercising its functions under that Act. It will also be a rail infrastructure owner in relation to rail infrastructure that is vested in it.

Schedule 1 [27] amends Schedule 6A to the Transport Act to apply the provisions of that Schedule (which confers powers relating to rail infrastructure facilities and land on rail authorities) to Sydney Metro.

Schedule 1 [28] amends Schedule 6A to the Transport Act to make Sydney Metro the owner of all rail infrastructure facilities installed by Sydney Metro or vested in or transferred to Sydney Metro (whether or not the place on which the facilities are situated is owned by Sydney Metro).

Schedule 1 [29] amends Schedule 6A to the Transport Act to make it clear that the powers to enter land for purposes connected with the functions of Sydney Metro include power to enter land for the purpose of carrying out geotechnical surveys.

Schedule 1 [30] amends Schedule 6B to the Transport Act to apply the provisions of that Schedule (which confers powers relating to underground rail facilities) to Sydney Metro.

Schedule 1 [31] amends Schedule 7 to the Transport Act to enable regulations containing savings and transitional provisions to be made consequent on the enactment of the proposed Act.

Schedule 1 [32] amends Schedule 7 to the Transport Act to insert a transitional provision.

Schedule 2 Amendment of other Acts

2.1 Electricity Supply Act 1995 No 94

Schedule 2.1 [1] amends section 106 of the Electricity Supply Act 1995 to enable regulations to be made exempting Sydney Metro from provisions of that Act requiring distribution network service providers to connect premises using customer connection contracts and from other provisions relating to contract requirements and Explanatory note page 6

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consultative committees. Sydney Metro is made a distribution network service provider under that Act by being included as a provider of a rail network electricity system by the amendment made by Schedule 2.1 [2].

2.2 Local Government Act 1993 No 30

Schedule 2.2 [1] amends section 555 of the Local Government Act 1993 to make land vested in or owned by Sydney Metro, in, on or over which rail infrastructure facilities are installed, exempt from rates.

Schedule 2.2 [2] amends section 600 of that Act to make Sydney Metro eligible for a rebate of rates on land that is vested in it.

Schedule 2.2 [3] amends section 742 of that Act to extend dispute resolution procedures for disputes between councils and government bodies to Sydney Metro.

2.3 Pipelines Act 1967 No 90

Schedule 2.3 amends section 3 of the Pipelines Act 1967 to make Sydney Metro a public authority for the purposes of that Act. The effect of this is that Sydney Metro will not be required to hold a licence in respect of any pipeline it constructs and must be notified of applications for pipeline licences and other matters.

2.4 Public Sector Employment and Management Act 2002 No 43

Schedule 2.4 [1] amends Schedule 1 to the Public Sector Employment and Management Act 2002 to establish a new Division within the Government Service for staff of Sydney Metro. Schedule 2.4 [2] makes a consequential amendment.

2.5 Roads Act 1993 No 33

Schedule 2.5 amends the Roads Act 1993 to prevent a roads authority from carrying out drainage work in or on which rail infrastructure facilities of Sydney Metro are situated.