



New South Wales

# Darling Harbour Authority Amendment and Repeal Bill 1998

## Explanatory note

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

### Overview of Bill

The objects of this Bill are:

- (a) as the first step in a two-step program, to amend the *Darling Harbour Authority Act 1984* so that the Darling Harbour Authority ceases to have environmental planning functions with respect to land in the Darling Harbour Development Area, those functions to be exercised instead by the Minister administering the *Environmental Planning and Assessment Act 1979*, and
- (b) as the second step in that program, to repeal the *Darling Harbour Authority Act 1984* and dissolve the Darling Harbour Authority, the assets and functions of the Authority to be transferred to such other body as the Minister administering the proposed Act determines.

The Bill also makes consequential amendments to other Acts and instruments and contains savings and transitional provisions.

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## 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, being a day or days occurring on or after the day on which the *Environmental Planning and Assessment Amendment Act 1997* commences.

**Clause 3** is a formal provision giving effect to the amendments to the *Darling Harbour Authority Act 1984* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendments to other Acts and instruments set out in Schedule 2, being amendments consequent on the amendments to the *Darling Harbour Authority Act 1984* referred to in clause 3.

**Clause 5** repeals the *Darling Harbour Authority Act 1984* and certain regulations under that Act.

**Clause 6** is a formal provision giving effect to the amendments to other Acts and instruments set out in Schedule 3, being amendments consequent on the repeal of the *Darling Harbour Authority Act 1984* referred to in clause 5.

**Clause 7** is a formal provision giving effect to the savings, transitional and other provisions set out in Schedule 4.

**Schedule 1** amends the *Darling Harbour Authority Act 1984* so as to give effect to the first step in the two-step program referred to above.

**Schedule 2** amends the following Acts and instruments as a consequence of the amendments to the *Darling Harbour Authority Act 1984* to be effected by Schedule 1:

- *City of Sydney Act 1988 No 48*
- *Darling Harbour Authority (General) Regulation 1994*
- *Darling Harbour (Management of Public Areas) Regulation 1995*
- *Environmental Planning and Assessment Act 1979 No 203*
- *Land and Environment Court Act 1979 No 204*
- *Liquor Act 1982 No 147*
- *Liquor Regulation 1996*
- *Local Government Act 1993 No 30*

Darling Harbour Authority Amendment and Repeal Bill 1998

Explanatory note

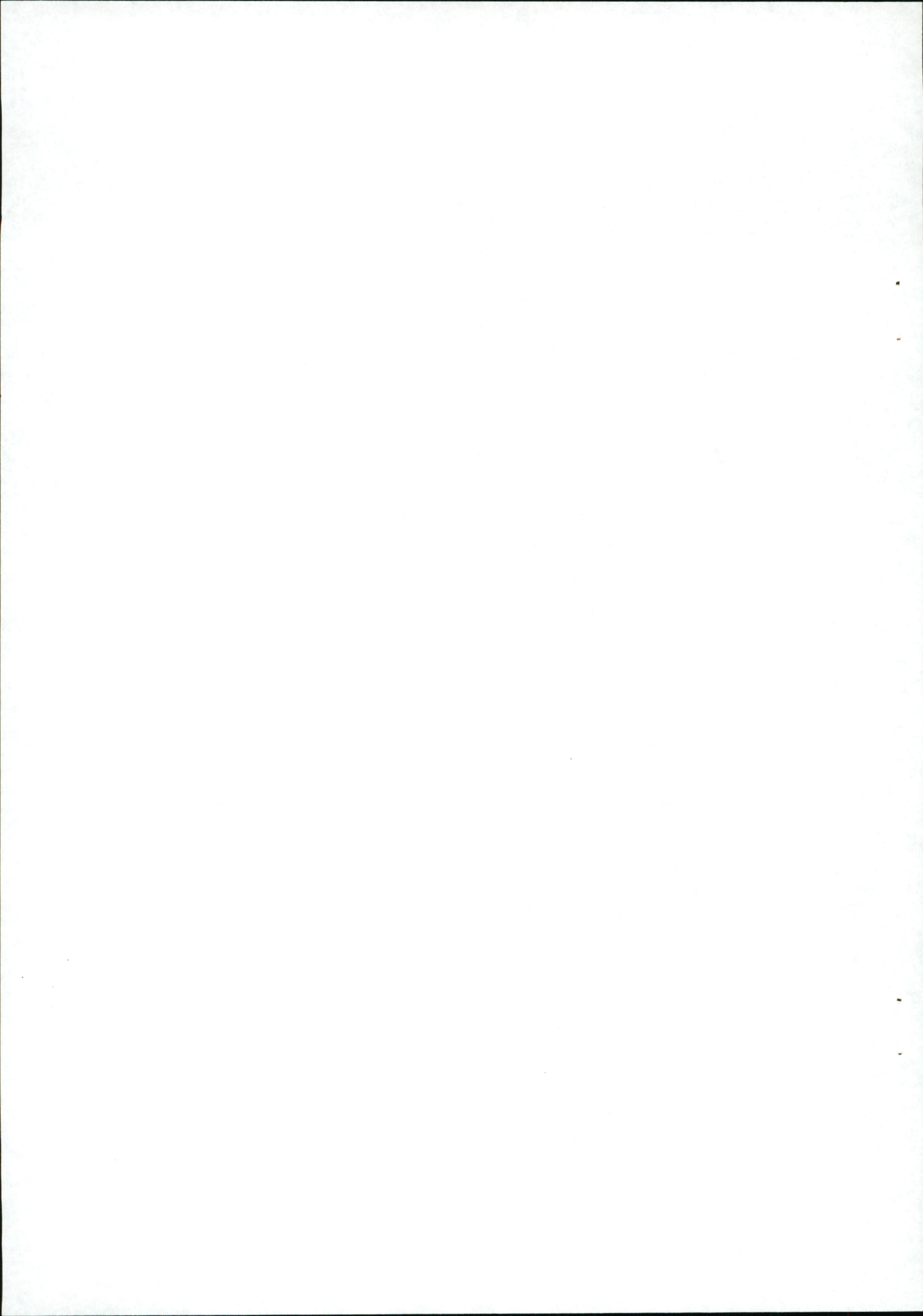
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- *Registered Clubs Act 1976 No 31*
- *Registered Clubs Regulation 1996*

**Schedule 3** amends the following Acts and instruments as a consequence of the repeal of the *Darling Harbour Authority Act 1984* to be effected by proposed section 5:

- *Darling Harbour (Monorail) Regulation 1995*
- *Environmental Offences and Penalties Act 1989 No 150*
- *Environmental Planning and Assessment Act 1979 No 203*
- *Impounding Act 1993 No 31*
- *Local Government Act 1993 No 30*
- *Motor Traffic Regulations 1935*
- *Public Authorities (Financial Arrangements) Act 1987 No 33*
- *Public Authorities (Financial Arrangements) Regulation 1995*
- *Public Finance and Audit Act 1983 No 152*
- *Public Sector Management Act 1988 No 33*
- *Rail Safety Act 1993 No 50*
- *Strata Schemes (Leasehold Development) Act 1986 No 219*
- *Transport Administration Act 1988 No 109*

**Schedule 4** provides for the dissolution of the Darling Harbour Authority, and the transfer of its staff, assets, rights and liabilities, consequent on the repeal of the *Darling Harbour Authority Act 1984* to be effected by proposed section 5.





New South Wales

# Darling Harbour Authority Amendment and Repeal Bill 1998

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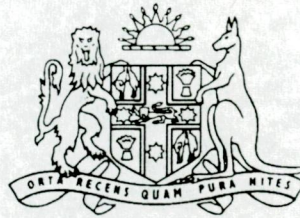
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New South Wales

## **Darling Harbour Authority Amendment and Repeal Bill 1998**

No. , 1998

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### **A Bill for**

An Act to amend the *Darling Harbour Authority Act 1984* with respect to environmental planning, to provide for the repeal of that Act and the dissolution of the Darling Harbour Authority; and for other purposes.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Darling Harbour Authority Amendment and Repeal Act 1998*.

**2 Commencement**

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- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsections (2) and (3).
- (2) A day appointed under this section with respect to the commencement of section 3 or 4 must not be a day occurring before the commencement of the *Environmental Planning and Assessment Amendment Act 1997*. 10
- (3) A day appointed under this section with respect to the commencement of section 5, 6 or 7 must not be a day occurring before 1 January 2001.

**3 Amendment of Darling Harbour Authority Act 1984 No 103**

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The *Darling Harbour Authority Act 1984* is amended as set out in Schedule 1.

**4 Amendments consequent on amendment of Darling Harbour Authority Act 1984**

Each Act and instrument specified in Schedule 2 is amended as set out in that Schedule. 20

**5 Repeal of Darling Harbour Authority Act 1984 No 103**

The following Act and instruments are repealed:

- (a) *Darling Harbour Authority Act 1984*,
- (b) *Darling Harbour Authority (General) Regulation 1994*, 25
- (c) *Darling Harbour (Management of Public Areas) Regulation 1995*.

**6 Amendments consequent on repeal of Darling Harbour Authority Act 1984**

Each Act and instrument specified in Schedule 3 is amended as set out in that Schedule. 30

**7 Savings, transitional and other provisions**

Schedule 4 has effect.



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**Schedule 1 Amendment of Darling Harbour Authority Act 1984**

(Section 3)

**[1] Section 3 Definitions**

Omit the definitions of *development plan*, *existing use* and *permit* from section 3 (1). 5

**[2] Section 3 (3) and (5)**

Omit the subsections.

**[3] Section 5A Amendment of Schedule 7**

Omit the section. 10

**[4] Section 9 Objects of the Authority**

Omit “, carry out and control”.  
Insert instead “and carry out”.

**[5] Section 9**

Omit “and land described in Schedule 7”. 15

**[6] Section 10 Functions of the Authority generally**

Omit section 10 (4).

**[7] Section 23F Approval for erection of supporting pillars**

Omit “other than such of them as are to be situated on land described in Schedule 7”. 20

- [8] Part 4 Development plans**  
Omit the Part.
- [9] Part 5 Development control**  
Omit the Part.
- [10] Section 49 Interpretation** 5  
Omit "Act, and" from section 49 (a) (ii).  
Insert instead "Act."
- [11] Section 49 (b)**  
Omit the paragraph.
- [12] Section 51 Orders of the Court** 10  
Omit section 51 (2) and (3).
- [13] Section 59 Application of certain legislation within Development Area**  
Omit the section.
- [14] Section 67 Regulations** 15  
Omit section 67 (1) (f)–(i).
- [15] Section 67 (3)**  
Omit the subsection.
- [16] Schedule 7 Land ancillary to the Development Area** 20  
Omit the Schedule.

**Schedule 2 Amendments consequent on  
amendment of Darling Harbour  
Authority Act 1984**

(Section 4)

- 2.1 City of Sydney Act 1988 No 48** 5
- Section 32 Relationship of this Part to the Planning Act etc**  
Omit section 32 (4).
- 2.2 Darling Harbour Authority (General) Regulation 1994**
- [1] Clause 3 Definitions**  
Omit the definitions of *demolition*, *private land*, *register*, *relevant date* and *renovation* from clause 3 (1). 10
- [2] Clause 3 (2) (a)**  
Omit the paragraph.
- [3] Parts 2, 3, 4, 5 and 6**  
Omit the Parts. 15
- [4] Clauses 29, 30 and 31**  
Omit the clauses.
- [5] Schedule 1 Forms**  
Omit the Schedule.

**2.3 Darling Harbour (Management of Public Areas)  
Regulation 1995**

**Clause 15 Application of certain maritime legislation to Cockle  
Bay**

Omit the clause. 5

**2.4 Environmental Planning and Assessment Act 1979 No  
203**

**[1] Schedule 6 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Darling Harbour Authority Amendment and Repeal Act  
1998* 10

**[2] Schedule 6, Part 7**

Insert after Part 6 (as inserted by the *Environmental Planning and  
Assessment Amendment Act 1997*):

**Part 7 Darling Harbour Authority Amendment and  
Repeal Act 1998** 15

**21 Definitions**

In this Part:

*amending Act* means the *Darling Harbour Authority  
Amendment and Repeal Act 1998*. 20

*appointed day* means the day appointed for the  
commencement of Schedule 1 to the amending Act by  
proclamation under section 2 of that Act.

*Darling Harbour Development Area* has the same  
meaning as *Development Area* in the 1984 Act. 25

*the 1984 Act* means the *Darling Harbour Authority Act  
1984*.

## 22 Consent authority

The consent authority with respect to land in the Darling Harbour Development Area is:

- (a) except as provided by paragraph (b), the Minister,  
or 5
- (b) in relation to an application for a complying development certificate or Part 4A certificate, the Darling Harbour Authority.

## 23 Development plans

- (1) The *Darling Harbour Development Plan No 1* is taken to be a regional environmental plan, and may be amended and repealed accordingly. 10
- (2) A draft development plan for which an approval was in force under section 25 of the 1984 Act immediately before the appointed day is taken to be a draft regional environmental plan prepared under Division 3 of Part 3 of this Act. 15
- (3) Without limiting clause 1, a regulation referred to in that clause may make such amendments to the *Darling Harbour Development Plan No 1* as are necessary to enable that plan to have effect as a regional environmental plan. 20

## 24 Permits

- (1) An application for a permit under the 1984 Act that had not been finally determined before the appointed day is to be dealt with under Part 5 of that Act as if the amending Act had not been enacted. 25
- (2) For the purposes of this clause, an application is not finally determined unless:
  - (a) a permit is granted or refused and no appeal against the decision to grant or refuse the permit is made within 12 months after the date on which the permit is granted or refused, or 30
  - (b) if such an appeal is made, the appeal is withdrawn or finally disposed of. 35

- (3) A permit under the 1984 Act, including a permit granted in accordance with this clause, is taken to be a development consent granted under this Act.
- (4) This Act applies to a development consent arising under this clause as if it had been granted when the permit referred to in subclause (3) was granted. 5

**25 Power of Minister, corporation and Director to delegate functions**

For the purposes of section 23 of this Act, the Darling Harbour Authority is taken to be a council. 10

**26 Application of environmental planning instruments within Darling Harbour Development Area**

- (1) Any State environmental planning policy that is expressed to apply:
- (a) to the whole of the State, or 15
  - (b) to land within the Darling Harbour Development Area, or
  - (c) to land of which the Darling Harbour Development Area forms part,
- applies, in accordance with its provisions, to land within the Darling Harbour Development Area. 20
- (2) Any regional environmental plan, local environmental plan or deemed environmental planning instrument that was in force before the commencement of this clause does not apply to land within the Darling Harbour Development Area. 25
- (3) Subclause (2) does not prevent:
- (a) a regional environmental plan or local environmental plan made after the commencement of this clause from applying to land within the Darling Harbour Development Area, or 30
  - (b) a regional environmental plan or local environmental plan made before the commencement of this clause from applying to land within the Darling Harbour Development Area as a consequence of an amendment to the plan made after that commencement. 35

**2.5 Land and Environment Court Act 1979 No 204**

**[1] Section 20 Class 4—environmental planning and protection and development contract civil enforcement**

Omit section 20 (1) (cb) and (cc).

**[2] Section 20 (3) (a)**

5

Omit the following matter:

*New Darling Harbour Authority Act 1984,*

**2.6 Liquor Act 1982 No 147**

**Section 4 Definitions**

Omit “(such as the Darling Harbour Authority, for example)” from paragraph (b) of the definition of *local consent authority* in section 4 (1).

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**2.7 Liquor Regulation 1996**

**Clause 3 Definitions**

Omit “(such as the Darling Harbour Authority, for example)” from paragraph (b) of the definition of *local consent authority* in clause 3 (1).

15

**2.8 Local Government Act 1993 No 30**

**[1] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts**

20

Insert at the end of clause 1 (1):

*Darling Harbour Authority Amendment and Repeal Act 1998*

**[2] Schedule 8**

Insert at the end of the Schedule:

**Part 8 Provisions consequent on enactment of  
Darling Harbour Authority Amendment and  
Repeal Act 1998** 5

**27 Action taken by Darling Harbour Authority**

Anything done by the Darling Harbour Authority under this Act, as applied to land within the Darling Harbour Development Area by the regulations referred to in section 59 of the *Darling Harbour Authority Act 1984*, is taken to have been done by the relevant council under this Act. 10

**2.9 Registered Clubs Act 1976 No 31**

**Section 4 Definitions**

Omit “(such as the Darling Harbour Authority, for example)” from paragraph (b) of the definition of *local consent authority* in section 4 (1). 15

**2.10 Registered Clubs Regulation 1996**

**Clause 3 Definitions**

Omit “(such as the Darling Harbour Authority, for example)” from paragraph (b) of the definition of *local consent authority* in clause 3 (1). 20



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**Schedule 3 Amendments consequent on repeal of  
Darling Harbour Authority Act 1984**

(Section 6)

**3.1 Darling Harbour (Monorail) Regulation 1995**

**[1] Clause 3 Definitions**

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Omit "Authority" from paragraph (a) of the definition of *authorised person*.

Insert instead "State Rail Authority".

**[2] Clause 3, definition of "monorail transport system"**

Omit the definition. Insert instead:

10

*monorail transport system* means the Darling Harbour monorail transport system.

**[3] Clause 3, definition of "the Act"**

Omit the definition. Insert instead:

*the Act* means the *Rail Safety Act 1993*.

15

**[4] Clause 4**

Omit the clause. Insert instead:

**4 Penalties for offences**

A contravention of this Regulation is an offence and is punishable by a maximum penalty of 20 penalty units.

20

**3.2 Environmental Offences and Penalties Act 1989 No 150**

**Schedule 2 Penalty notices**

Omit clause 3.

**3.3 Environmental Planning and Assessment Act 1979  
No 203**

**Schedule 6 Savings, transitional and other provisions**

Omit clause 22.

**3.4 Impounding Act 1993 No 31** 5

**[1] Dictionary of expressions used in this Act**

Omit the tenth dot point paragraph from the definition of *area of operations*.

**[2] Dictionary of expressions used in this Act**

Omit the tenth dot point paragraph from the definition of *impounding authority*. 10

**3.5 Local Government Act 1993 No 30**

**Section 742 Dispute resolution**

Omit the third dot point paragraph from section 742 (7).

**3.6 Motor Traffic Regulations 1935** 15

**Regulation 130A Prescribed officers and offences (section 18B)**

Omit Regulation 130A (1) (g) (iii).

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**3.7 Public Authorities (Financial Arrangements) Act 1987  
No 33**

**Schedule 1 Authorities**

Omit "Darling Harbour Authority."

**3.8 Public Authorities (Financial Arrangements) Regulation  
1995** 5

**Schedule 1, Part 1 investment powers**

Omit the following matter:

Darling Harbour Authority

**3.9 Public Finance and Audit Act 1983 No 152** 10

**Schedule 2 Statutory bodies**

Omit "Darling Harbour Authority."

**3.10 Public Sector Management Act 1988 No 33**

**[1] Schedule 1 Departments**

Omit the matter relating to the Darling Harbour Authority. 15

**[2] Schedule 3B Senior executive positions**

Omit the matter relating to the Darling Harbour Authority from Part 1.

**3.11 Rail Safety Act 1993 No 50**

**[1] Section 8 Railways to which Act applies**

Insert after section 8 (1) (a):

- (a1) the Darling Harbour monorail transport system,  
and

5

**[2] Section 97 Darling Harbour monorail transport system etc**

Omit the section.

**[3] Schedule 4 Savings and transitional provisions**

Insert "and the *Darling Harbour Authority Amendment and Repeal Act 1998*" after "this Act" in clause 1 (1).

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**[4] Schedule 4, clause 1 (2)**

Omit "this Act". Insert instead "the Act concerned".

**[5] Schedule 4**

Insert after Part 2:

**Part 3 Provisions consequent on enactment of  
Darling Harbour Authority Amendment and  
Repeal Act 1998**

15

**6 Darling Harbour (Monorail) Regulation 1995**

The *Darling Harbour (Monorail) Regulation 1995* is taken to be a regulation under this Act, and may be amended and repealed accordingly.

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**3.12 Strata Schemes (Leasehold Development) Act 1986  
No 219**

**Section 4 Definitions**

Omit paragraph (b) from the definition of *local council* in section 4 (1).

5

**3.13 Transport Administration Act 1988 No 109**

**[1] Schedule 7 Savings, transitional and other provisions**

Insert at the end of clause 2 (1):

*Darling Harbour Authority Amendment and Repeal Act  
1998*

10

**[2] Schedule 7**

Insert at the end of the Schedule:

**Part 5 Provisions consequent on enactment of  
Darling Harbour Authority Amendment and  
Repeal Act 1998**

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**73 Darling Harbour monorail transport system**

- (1) The Darling Harbour monorail transport system is taken to be a light rail system for the purposes of this Act.
- (2) Subject to the regulations, the route of the Darling Harbour monorail transport system, as it was immediately before the repeal of the *Darling Harbour Authority Act 1984*, is taken to have been declared under section 104N (2).
- (3) Section 104P (3) does not apply to the operation of the Darling Harbour monorail transport system along the route referred to in subclause (2).

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## Schedule 4 Savings, transitional and other provisions

(Section 7)

### 1 Definitions

In this Schedule: 5

*assets* means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents.

*Authority* means the Darling Harbour Authority constituted under the 1984 Act. 10

*liabilities* means any liabilities, debts or obligations (whether present or future and whether vested or contingent).

*Minister* means the Minister administering the 1984 Act.

*rights* means any rights, powers, privileges or immunities (whether present or future and whether vested or contingent). 15

*the 1984 Act* means the *Darling Harbour Authority Act 1984*.

*transfer* means a transfer under clause 3.

*transferee* means the person or body to which any staff, assets, rights or liabilities are transferred. 20

### 2 Dissolution of Authority

- (1) The Authority is dissolved.
- (2) Part 8 of the *Public Sector Management Act 1988* applies to each member of the Authority as if the member had been removed from office by the Governor under section 90 of that Act. 25

### 3 Transfer of staff, assets, rights and liabilities

- (1) The Minister may direct, by order in writing, that any specified staff, assets, rights or liabilities of the Authority be transferred to such other person or body as is specified in the order. 30
- (2) Such an order may be made on such terms and conditions as are specified in the order.

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#### 4 Transfer of staff

A member of staff who is transferred is (until other provision is duly made under any Act or law) to be employed in accordance with any relevant statutory provisions, awards, agreements and determinations that would have applied to the person had the person not been transferred but remained a member of staff of the Authority. 5

#### 5 Vesting of undertaking in transferee

- (1) When any assets, rights or liabilities are transferred, the following provisions have effect: 10
- (a) the assets of the Authority vest in the transferee by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance,
  - (b) the rights or liabilities of the Authority become by virtue of this clause the rights or liabilities of the transferee, 15
  - (c) all proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the Authority or a predecessor of the Authority and pending immediately before the transfer are taken to be proceedings pending by or against the transferee, 20
  - (d) any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the Authority is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the transferee, 25
  - (e) a reference in any Act, in any instrument made under any Act or in any document of any kind to the Authority or a predecessor of the Authority is (to the extent to which it relates to those assets, rights or liabilities) taken to include a reference to the transferee. 30
- (2) The operation of this clause is not to be regarded:
- (a) as a breach of contract or confidence or otherwise as a civil wrong, or

Schedule 4 Savings, transitional and other provisions

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- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
    - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability. 5
  - (3) The operation of this clause is not to be regarded as an event of default under any contract or other instrument.
  - (4) No attornment to the transferee by a lessee from the Authority is required. 10
  - (5) A transfer is subject to the terms and conditions of the order by which it is effected.
  - (6) No compensation is payable to any person or body in connection with a transfer except to the extent (if any) to which the order giving rise to the transfer so provides. 15
  - (7) Subclause (6) does not affect the rights of any member of staff who is the subject of a transfer.
- 6 Date of vesting**
- A transfer takes effect on the date specified in the order by which it is effected. 20
- 7 Consideration for vesting**
- The Minister may, by order in writing, specify the consideration on which a transfer is made and the value or values at which the assets, rights or liabilities are transferred. 25
- 8 Stamp duty**
- Stamp duty is not chargeable for or in respect of:
- (a) a transfer, or
  - (b) anything certified by the Minister as having been done in consequence of a transfer (for example, the transfer or conveyance of an interest in land). 30



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**9 Confirmation of vesting**

- (1) The Minister may, by notice in writing, confirm a transfer of particular assets, rights or liabilities by operation of this Schedule.
- (2) Such a notice is conclusive evidence of that transfer. 5

**10 Regulations**

- (1) The Governor may make regulations of a savings or transitional nature consequent on the enactment of this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later day. 10
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or 15
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

