

Explanatory note

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

Overview of Bill

The object of this Bill is to establish a new framework for the administration and governance of the delivery of transport services and infrastructure by public transport agencies (such as RailCorp, RTA, the State Transit Authority and Sydney Ferries) under the general direction of the Director-General of Transport NSW. For that purpose, the Bill:

(a) confers on the Director-General of Transport NSW (which is currently known as the Department of Transport and Infrastructure) specific functions in relation to such matters as transport planning and policy, the administration of the allocation of public funding for public transport agencies, transport infrastructure, contracting for the delivery of public transport services, transport services co-ordination, incident management and the provision and deployment of staff to public transport agencies, and

(b) enables the Director-General, for the purposes of exercising his or her functions, to give directions to public transport agencies and provides that the chief executive of a public transport agency is to manage the affairs of the agency in accordance with any directions of the Director-General, and

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(c) consequently abolishes the Boards of management of various public transport agencies, and

(d) changes the Transport Infrastructure Development Corporation (TIDC) and the Rail Infrastructure Corporation (RIC) from State owned corporations to statutory corporations having structures, accountabilities and staffing arrangements similar to RailCorp and Sydney Ferries, and

(e) renames TIDC as the Transport Construction Authority and RIC as the Country Rail Infrastructure Authority, and

(f) retains the Independent Transport Safety and Reliability Regulator (which will be renamed the Independent Transport Safety Regulator as a consequence of the changes made by the proposed Act) as the independent regulator for rail and other transport safety and also enables the Director-General to obtain assistance from the ITSIR for his or her passenger safety responsibilities under the Passenger Transport Act 1990, and

(g) provides for the review by the ITSIR (or by the Maritime Authority of NSW in the case of ferry services) of directions of the Director-General that may affect the safety management systems of certain transport authorities, and

(h) provides for the abolition of the Public Transport Ticketing Corporation and Sydney Metro as statutory corporations, but provides for their temporary continuation for the purposes of managing their existing assets, rights and liabilities, and

(i) consolidates and rationalises various provisions of the Transport Administration Act 1988 (TA Act) as a consequence of the new framework for the governance of the delivery of transport services and infrastructure by public transport agencies, and

(j) makes amendments of a consequential, minor or administrative nature to various other Acts and legislation.

Outline of provisions

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

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

Schedule 1 Principal amendments

Schedule 1.1 Transport Administration Act 1988 No 109

Schedule 1.1 [1] provides for the objects of the TA Act in so far as they relate to the administration of the transport services provided to the people of NSW.

Schedule 1.1 [2] and [3] define the terms Director-General and Transport NSW for the purposes of the TA Act.

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Schedule 1.1 [4] consolidates the existing provisions of the TA Act relating to Ministerial control over the chief executives of public transport agencies and the Director-General in the exercise of their functions.

Schedule 1.1 [5] confers on the Director-General general functions in relation to transport planning and policy, transport public funding, transport infrastructure, contracting for the delivery of transport services, transport services co-ordination, incident management, transport information, provision and deployment of transport agency staff and services, ticketing for transport services and precinct land planning. The Director-General also continues to have functions in relation to the provision of light rail services and under the Passenger Transport Act 1990 (as well as under other legislation).

Schedule 1.1 [5] also enables the Director-General to give directions to the various public transport agencies for the purposes of exercising his or her functions. The amendments made by Schedule 1.1 [8], [13], [16] and [20] require the Chief Executives of RailCorp, STA, Sydney Ferries and RTA (in addition to the proposed Transport Construction Authority and renamed Country Rail Infrastructure Authority) to exercise their functions of managing the affairs of the agency concerned in accordance with any such directions of the Director-General. Public transport agencies will also be required to provide budget and other information to enable the Director-General to exercise his or her functions. The Director-General will also be able to delegate his or her functions in the usual manner.

Schedule 1.1 [5] also provides for the review, by either the Independent Transport Safety Regulator (in the case of directions relating to rail services or infrastructure or to bus services if an arrangement under proposed section 6B of the Passenger Transport Act 1990 is in place) or by the Maritime Authority of NSW (in the case of directions relating to ferry services), of directions of the Director-General to a transport authority that may impact on the safety management system of the transport authority. Such a review may be requested by either the Director-General or by the transport authority concerned and the request operates to suspend the direction. As a result of the review by the relevant safety regulator, the Director-General may confirm, change or revoke the direction.

Schedule 1.1 [6] abolishes the boards of directors of RailCorp, STA and Sydney Ferries.

Schedule 1.1 [7], [12], [15] and [19] provide for the Director-General, with the approval of the Minister, to appoint the Chief Executives of RailCorp, STA, Sydney Ferries and RTA. The Director-General will also appoint the Chief Executives of the renamed Transport Construction Authority and Country Rail Infrastructure Authority.

Schedule 1.1 [9] transfers from the Minister to the Director-General functions relating to the corporate plans of RailCorp, STA and Sydney Ferries.

Schedule 1.1 [10], [11], [14] and [17] make consequential amendments.

Schedule 1.1 [18] establishes a Transport Advisory Council to advise the Minister and Director-General. The new advisory council will replace the existing Transport Advisory Group and the Roads and Traffic Advisory Council.

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Schedule 1.1 [21] consolidates existing provisions that enable transport authorities (including the proposed newly renamed authorities and the Director-General) to exercise functions through public subsidiary corporations constituted by the regulations, private subsidiary corporations or joint ventures or partnerships with the private sector.

Schedule 1.1 [22] makes specific provision to enable the Director-General, by order, to transfer staff from one transport authority to another transport authority, subject to the preservation of existing remuneration and other conditions of employment on transfer.

Schedule 1.2 Public Sector Employment and Management Act 2002 No 43

Schedule 1.2 changes the name of the Department of Transport and Infrastructure to Transport NSW (which will continue as a Department of the Public Service with the Director-General as the Department Head). Schedule 1.2 also creates a branch of Transport NSW (known as the Transport Special Services Group) which will comprise staff of Transport NSW who are not subject to Chapter 2 of the Public Sector Employment and Management Act 2002.

Schedule 2 Amendments relating to Transport Construction Authority (formerly TIDC)

Schedule 2.1 contains the following amendments to the TA Act:

(a) Schedule 2.1 [3] constitutes the Transport Construction Authority (which is a continuation of, and the same legal entity as, TIDC but which will not be a State owned corporation), specifies its functions (which are generally based on the present functions of TIDC) and provides for the appointment by the Director-General of a Chief Executive of the Authority who will be responsible for managing and controlling the affairs of the Authority in accordance with any directions of the Director-General.

(b) Schedule 2.1 [1], [2] and [7]–[12] are consequential on the change of name from TIDC to the Transport Construction Authority (the TCA).

(c) Schedule 2.1 [4] enables the ITSr to monitor, audit and carry out certain other functions in relation to the TCA.

(d) Schedule 2.1 [5] enables the TCA to employ its own staff and provides that the staff are not part of the Government Service.

(e) Schedule 2.1 [6] provides for the establishment of the Transport Construction Authority Fund and for the payment of money into and out of the Fund.

Schedule 2.2, 2.4, 2.5 and 2.7 amend superannuation legislation to replace references to TIDC with references to the TCA which will continue to be an employer for the purposes of that legislation.

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Schedule 2.3 lists the TCA as a statutory body for the purposes of the Public Finance and Audit Act 1983 (which also means the TCA will be subject to the usual auditing and annual reporting requirements).

Schedule 2.6 consequentially removes TIDC from the list of statutory State owned corporations under the State Owned Corporations Act 1989.

Schedule 3 Amendments relating to Country Rail Infrastructure Authority (formerly RIC)

Schedule 3.1 contains the following amendments to the TA Act:

(a) Schedule 3.1 [3] constitutes the Country Rail Infrastructure Authority (which is a continuation of, and the same legal entity as, the Rail Infrastructure Corporation (RIC) but which will not be a State owned corporation), specifies its functions (which are based on the present functions of RIC) and provides

for the appointment by the Director-General of a Chief Executive of the Authority who will be responsible for managing and controlling the affairs of the Authority in accordance with any directions of the Director-General.

(b) Schedule 3.1 [1], [2], [4] and [7]–[12] are consequential on the change of name from RIC to the Country Rail Infrastructure Authority (CRIA).

(c) Schedule 3.1 [5] enables CRIA to employ its own staff and provides that the staff are not part of the Government Service.

(d) Schedule 3.1 [6] provides for the establishment of the Country Rail Infrastructure Authority Fund and for the payment of money into and out of the Fund.

Schedule 3.2 replaces a reference to RIC in the definition of electricity supply authority in the Electricity (Consumer Safety) Act 2004 with a reference to CRIA.

Schedule 3.3, 3.5, 3.6 and 3.8 amend superannuation legislation to replace references to RIC with references to CRIA which will continue to be an employer for the purposes of that legislation.

Schedule 3.4 lists the CRIA as a statutory body for the purposes of the Public Finance and Audit Act 1983 (which also means CRIA will be subject to the usual annual reporting requirements).

Schedule 3.7 removes RIC from the list of statutory State owned corporations under the SOC Act.

Schedule 3.9 is a consequential repeal.

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Schedule 4 Amendments relating to Sydney Metro

Schedule 4.1 contains the following amendments to the TA Act:

(a) Schedule 4.1 [15] continues Sydney Metro for the purposes of managing the remaining assets, rights and liabilities of Sydney Metro pending its final dissolution and provides for the Director-General to manage its affairs.

Sydney Metro is to be dissolved on a date to be proclaimed by the Governor.

(b) Schedule 4.1 [1]–[14] remove references to Sydney Metro from the TA Act.

Schedule 4.2–4.5 amend various Acts to remove references to Sydney Metro as a consequence of the amendments made by Schedule 4.1.

Schedule 5 Amendments relating to Public

Transport Ticketing Corporation

Schedule 5.1 contains the following amendments to the TA Act:

(a) Schedule 5.1 [3] continues the Public Transport Ticketing Corporation for the purposes of managing the remaining assets, rights and liabilities of the Corporation pending its final dissolution and provides for the

Director-General to manage its affairs. The Public Transport Ticketing Corporation is to be dissolved on a date to be proclaimed by the Governor.

(b) Schedule 5.1 [1], [2] and [4] remove references to the Public Transport Ticketing Corporation.

Schedule 5.2 abolishes the separate Division of the Government Service comprising the staff of the Public Transport Ticketing Corporation.

Schedule 6 Amendments relating to Independent

Transport Safety and Reliability

Regulator

Schedule 6.1 amends the TA Act to change the name of the regulator from the Independent Transport Safety and Reliability Regulator to the Independent Transport Safety Regulator (the ITSr) and to make consequential amendments.

Schedule 6.2 amends the Passenger Transport Act 1990 to enable the Director-General to arrange for the ITSr to assist in the exercise of (or to exercise by way of delegation) the Director-General's passenger transport safety functions

under that Act (such as assessing whether accredited bus service operators meet the relevant safety standards).

Schedule 6.3 and 6.4 contain amendments that are consequential on the change of name of the ITSr.

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Schedule 7 Consequential and other amendments

Schedule 7.1 contains consequential and other amendments to the TA Act.

Schedule 7.2 provides for RailCorp to have the status of an electricity supply authority for the purposes of the Electricity (Consumer Safety) Act 2004.

Schedule 7.3 amends the Local Government Act 1993 to exempt rail infrastructure facility land owned or vested in a public transport agency from being subject to local council rates.

Schedule 7.4 amends the Passenger Transport Act 1990 (PTA) to replace references relating to the Department of Transport and Infrastructure with references to Transport NSW. Schedule 7.4 also transfers, to the PTA, the provision in the TA Act that enables the Director-General to delegate his or her functions under the PTA.

Schedule 7.5 amends the list of Departments in Schedule 3 to the Public Finance and Audit Act 1983 to replace a reference to the Department of Transport and Infrastructure with a reference to Transport NSW.

Schedule 7.6 amends the Public Sector Employment and Management Act 2002:

(a) to provide that a branch of a Department is not part of the Public Service (ie subject to the requirements of Chapter 2 of that Act) if the branch is specified in Part 3 of Schedule 1 to that Act as a Special Employment Division (as a consequence of Schedule 1.2 which establishes the Transport Special Services Group as such a branch), and

(b) to provide that the Director-General of Transport NSW is the employer of the chief executives of the various public transport agencies constituted under the TA Act and may determine their remuneration.

Schedule 7.7 repeals a provision of the Public Sector Employment and Management (Departmental Amalgamations) Order 2009 relating to the transfer of certain staff of public transport agencies as the provision is now redundant because of the new transfer of staff provisions to be inserted in the TA Act by the proposed Act.