

Macquarie Point Development Bill 2012

Clause Notes

PART 1	PRELIMINARY
Clause 1	Short title
	Cites the short title of the Bill.
Clause 2	Commencement
	Provides for commencement of the Act on the day the Act receives the Royal Assent.
Clause 3	Interpretation
	Contains definitions and other interpretive provisions used in the Bill.
Clause 4	Material personal interest
	Provides the definition for this specific term.
PART 2	MACQUARIE POINT DEVELOPMENT CORPORATION
Division 1	<i>Establishment of Macquarie Point Development Corporation</i>
Clause 5	Establishment of Macquarie Point Development Corporation
	Establishes the Corporation.
Clause 6	Principal objectives of Corporation
	Outlines the principal objectives of the Corporation.
Clause 7	Functions of Corporation
	Outlines the Corporation's functions.
Clause 8	Powers of Corporation
	Details the powers of the Corporation, including those powers that may only be exercised with the written approval of the Minister.
Division 2	<i>Board of Corporation</i>
Clause 9	Board
	Describes the composition of the Board and the process for appointment of Board members (other than the chief executive officer).
Clause 10	Responsibilities
	Details the responsibilities of the Board.

Clause 11	Delegation by Board
	Provides the Board with the power to delegate.
Clause 12	Committees
	Details the committees the Board may establish, and the functions and responsibilities of the audit committee, which the Board must establish.
Clause 13	Acting Directors
	Provides the Governor with the ability to appoint a person to act as a director of the Corporation when a director is absent from duty or otherwise unable to perform the functions of the office of a director.
Division 3	Assistance and facilities
Clause 14	Assistance and facilities
	Provides that the Corporation may arrange for assistance and facilities to be provided by the Secretary of the Department, another Head of Agency or any other person, and details how the related expenses will be met.
PART 3	STAFF OF CORPORATION
Clause 15	Chief executive officer
	Provides for the appointment of the position of the chief executive officer in accordance with the <i>State Service Act 2000</i> .
Clause 16	Responsibilities of chief executive officer
	Details the chief executive officer's responsibilities.
Clause 17	Delegation by chief executive officer
	Gives the chief executive officer the power to delegate.
Clause 18	Effect of chief executive officer ceasing to be chief executive officer
	Sets out the consequences of the appointment of the chief executive officer being terminated.
Clause 19	Employees
	Provides that staff of the Corporation will be appointed pursuant to the <i>State Service Act 2000</i> .

PART 4	POWERS AND DUTIES OF, OFFENCES BY AND INDEMNIFICATION OF DIRECTORS AND STAFF
Clause 20	Power of former director to access records
	Provides former directors of the Corporation with the power to inspect and make copies of the records of the Corporation for the purposes of legal proceedings to which the former director is a party.
Clause 21	Power of director to access records
	Provides a director with the power to inspect and make copies of the records of the Corporation at any reasonable time.
Clause 22	Duties of officers and employees
	Sets out the duties of officers and employees and provides penalties for the breach of a duty.
Clause 23	Duty to prevent insolvent trading
	Requires a director to prevent the Corporation from incurring a debt where the Corporation is insolvent at that time or will become insolvent by incurring the debt, and provides penalties for failing to do so.
Clause 24	False or misleading information
	Requires that an officer must not make a false or misleading statement in relation to the matters specified in the clause.
Clause 25	Reliance on information or advice
	Sets out the circumstances where an officer's reliance on information or advice will be taken to be reasonable unless the contrary is proved.
Clause 26	Director to disclose material personal interest
	Requires directors to disclose material personal interests, sets out the procedures for dealing with a director's material personal interest, and provides for exemptions in limited circumstances.
Clause 27	Board may declare material personal interest
	Provides that the Board may declare that a director has material personal interest in a matter that relates to the affairs of the Corporation.

Clause 28	Standing notice of director's interest
	Enables a director to give a standing notice of an interest in a matter that relates to the affairs of the Corporation.
Clause 29	Restriction on director's participation in case of material personal interest
	Provides the steps required and restrictions on a director's participation at a meeting of the Board where a director has a material personal interest in a matter being considered at the meeting.
Clause 30	Director may be required to divest of material personal interest
	Provides that the Minister may require a director to either divest himself or herself of a material personal interest or resign as a director.
Clause 31	Civil penalty order
	Provides for circumstances under which a court may make a civil penalty order.
Clause 32	Proceedings under this Part prevail
	Provides that if a person could be charged with an offence against Part 4 and could be found to have breached the Code of Conduct within the meaning of the <i>State Service Act 2000</i> , proceedings may only be commenced under Part 4.
Clause 33	Proceedings for offence
	Provides for the time within which proceedings for an offence against Part 4 may be commenced, where those proceedings may be instituted and determined, and who may institute proceedings.
Clause 34	Compensation and other payments for contravention of this Part
	Provides for circumstances in which a court may order a person found guilty of an offence under Part 4 to make a payment to the Corporation or subsidiary of the Corporation.

Clause 35	Indemnifying officers
	Details the circumstances within which the Corporation or a subsidiary of the Corporation is prohibited from exempting a person from a liability to the Corporation or a subsidiary of the Corporation. Also details the circumstances within which the Corporation or subsidiary of the Corporation is prohibited from indemnifying a person against certain liabilities. Provides that the <i>Statutory Authorities (Protection from Liability of Members) Act 1993</i> does not apply in respect of the Corporation or its directors.
PART 5	DIRECTIONS AND PLANS
Clause 36	Ministerial directions
	Provides that the Minister may give the Board directions in connection with the functions and powers of the Corporation. Prohibits the Minister from directing the Board to enter into any contract on behalf of the Corporation or directing the Board to vary, terminate or rescind any contract to which the Corporation is a party.
Clause 37	Site redevelopment plan
	Provides that the Minister may direct the Board to prepare a site redevelopment plan, specifies what that plan is to include, and details how the plan may be approved and amended.
Clause 38	Corporate plan
	Provides that the Board is to prepare a corporate plan and specifies what the corporate plan is to include. Provides that the corporate plan and any amendments to it must be approved by the Minister.
Clause 39	Notification of matters
	Provides that the Board is required to notify the Minister as soon as practicable of certain types of matters.
PART 6	FINANCIAL AFFAIRS AND REPORTS
Division 1	<i>Financial affairs of Corporation</i>
Clause 40	Treasurer's Instructions
	Provides that the Treasurer's Instructions apply to the Corporation as if it were an Agency within the meaning of the <i>Financial Management and Audit Act 1990</i> . Also provides that the Treasurer may modify the application of the Treasurer's Instructions to the Corporation.

Clause 41	Authorised deposit-taking institution accounts
	Provides for the Corporation to open and operate such authorised deposit-taking institution accounts as it considers necessary.
Clause 42	Funds of Corporation
	Details what the funds of the Corporation consist of, and what those funds are to be applied to.
Clause 43	Effect of <i>Financial Agreement Act 1994</i>
	Requires the Corporation to comply with any requirement of the Treasurer made under s5(1) of the <i>Financial Agreement Act 1994</i> .
Clause 44	Investment
	Subject to s16 of <i>Tasmanian Public Finance Corporation Act 1985</i> , provides that the Corporation may invest funds held by it.
Clause 45	Borrowing from Treasurer
	Details the circumstances in which the Treasurer may lend money to the Corporation.
Clause 46	Capital contribution by Treasurer
	Allows the Treasurer to make a capital contribution to the Corporation.
Clause 47	Borrowing from person other than Treasurer
	Details the circumstances in which the Corporation may borrow from a person other than the Treasurer, and provides for that the Treasurer may guarantee a payment or repayment to a person from which the Corporation borrows or obtains financial accommodation.
Division 2	<i>Accounting records and financial statements</i>
Clause 48	Accounting records
	Requires the Board to keep accounting records.
Clause 49	Financial statements
	Requires the Board to prepare and forward to the Auditor-General a copy of its financial statements in accordance with the <i>Audit Act 2008</i> .
Division 3	<i>Annual report and other information</i>

Clause 50	Annual report
	Requires the Board to prepare an annual report for each financial year.
Clause 51	Tabling of annual report
	Requires the Minister to lay a copy of the annual report of the Corporation before each House of Parliament.
PART 7	MISCELLANEOUS
Clause 52	Minister may transfer employees to Corporation
	Details the way in which the Minister may transfer employees to the Corporation.
Clause 53	Transfer of Crown land
	Details the way in which the Minister may transfer Crown land to the Corporation.
Clause 54	Transfer of property and obligations
	Details the way in which the Minister may transfer any property, rights and obligations of the Crown to the Corporation.
Clause 55	State tax not payable
	Provides that State tax is not payable in respect of certain transfers.
Clause 56	Regulations
	Provides for the Governor to make regulations for the purposes of the Act.
Clause 57	Administration of Act
	Assigns administration of the Act to the Minister for Economic Development.
Clause 58	Consequential amendments
	Provides that the legislation specified in Schedule 4 of the Act is amended as specified in that Schedule.
Schedule I	Directors
	Contains provisions related to directors of the Corporation, including the term of office, conditions of appointment, process for removal of a director and for the filling of a vacancy on the Board.

Schedule 2	Meetings of Board
	Contains provisions related to meetings of the Board, including who must preside, what constitutes a quorum, how meetings may be conducted, how resolutions may be passed, and requires the Board to keep minutes of its proceedings.
Schedule 3	Committees
	Contains provisions relating to the membership of committees of the Board of the Corporation, conditions of appointment to a committee, how meetings are to be conducted, and what interests are to be disclosed.
Schedule 4	Consequential amendments
	Inserts the position of Chief Executive Officer of the Macquarie Point Development Corporation into Part 2, Schedule 1 of the <i>State Service Act 2000</i> .