

Passed by both Houses



New South Wales

Transport Administration Amendment Bill 2024

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2024



New South Wales

Transport Administration Amendment Bill 2024

Act No , 2024

An Act to amend the *Transport Administration Act 1988* to promote active transport and to improve the activation of public spaces; to convert the Transport Asset Holding Entity of New South Wales into the Transport Asset Manager New South Wales and provide for its functions, management and status; and for related purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Transport Administration Amendment Act 2024*.

2 Commencement

This Act commences as follows—

- (a) for Schedule 1.1—on the date of assent to this Act,
- (b) otherwise—on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Transport Administration Act 1988 No 109

1.1 Amendments relating to active transport and activation of public spaces

[1] Section 3 Definitions

Insert in alphabetical order in section 3(1)—

activation, of a public space, means the carrying out of works or activities to enhance the functionality of, or the conduct of human activity or operations within, the space, including works or activities to promote the following—

- (a) the quality, amenity, vibrancy, accessibility, built form, infrastructure and perceptions of safety of the space,
- (b) the resilience of individuals, communities, institutions, businesses and systems in relation to the space,
- (c) the use of technology, and the collection and use of data, in and about the space,
- (d) events in and about the space.

active transport means the movement of people, or people and goods, by the following—

- (a) one or more modes of transport, powered or partially powered by human activity, including by the following modes—
 - (i) walking,
 - (ii) running,
 - (iii) cycling,
 - (iv) scootering,
 - (v) skating,
 - (vi) the use of a manual wheelchair,
- (b) the use of a micromobility device,
Example— an e-scooter
- (c) the use of a motorised mobility device.
Example— a motorised wheelchair or a mobility scooter

mode shift, in relation to transport, means a change from the use of one mode of transport to another mode of transport.

public space means a space that is open to the public, or is used by the public, for no payment of money or other consideration.

Note— Public spaces may include public open spaces, public facilities and streets.

[2] Section 3D Objectives of TfNSW

Insert after section 3D(e)—

- (f) to promote active transport and its integration with other modes of transport,
- (g) to improve the activation of public spaces.

[3] Schedule 1 Functions of Transport for NSW

Insert after Part 2A—

Part 2B Active transport and public spaces functions

8L Definition

In this part—

active transport and activation purpose includes the following purposes—

- (a) to promote and enable active transport,
- (b) to promote mode shifting to active transport from other modes of transport,
- (c) to improve the activation and accessibility of public spaces.

8M Active transport and activation development, conduct, implementation, co-ordination and evaluation

TfNSW may do the following for an active transport and activation purpose—

- (a) develop, conduct, implement and coordinate programs, projects, strategies and campaigns,
- (b) develop, implement and co-ordinate plans and proposals,
- (c) conduct and coordinate activities,
- (d) allocate resources,
- (e) develop and implement new technology,
- (f) evaluate the matters referred to in paragraphs (a)–(e).

8N Advice and assistance to public and local authorities

TfNSW may provide advice and assistance to public and local authorities for an active transport and activation purpose.

8O Advice and assistance to Minister

TfNSW may provide advice and assistance, and make recommendations, to the Minister in connection with an active transport and activation purpose.

8P Grants schemes and partnerships

TfNSW may, with the approval of the Minister, administer schemes for the making of grants, or enter into partnerships, for an active transport and activation purpose.

1.2 Amendments relating to Transport Asset Manager

[1] Section 3 Definitions

Omit section 3(1), definition of *rail infrastructure owner*, paragraph (a3).

Insert instead—

- (a3) in the case of any rail infrastructure facilities owned by TAM or vested in TAM by or under this or another Act, TAM, or

[2] Section 3(1)

Omit the definitions of *board*, *listed functions*, *SOC Act*, *TAHE* and *voting shareholders*.

Insert in alphabetical order—

TAM means Transport Asset Manager of New South Wales constituted under Part 2.

TAM advisory board means the TAM advisory board established under Part 2.

[3] Section 3B Ministerial responsibility and delegation

Insert after section 3B(1)(a1)—

- (b) TAM,

[4] Section 3B(1B) and (1C)

Insert after section 3B(1A)—

- (1B) TAM is, in the exercise of its functions, subject to the control and direction of the Minister.
- (1C) To avoid doubt, the Minister may direct TAM to do either or both of the following—
 - (a) cease exercising one or more of its functions,
 - (b) exercise its functions in a limited way.

[5] Section 3I Delegation of TfNSW's functions

Insert after section 3I(3), definition of *authorised person*, paragraph (a1)—

- (a2) TAM or a member of staff of TAM, or

[6] Section 3J Acceptance of delegated functions by TfNSW

Omit “or RTC” from section 3J(1).

Insert instead “, RTC or TAM”.

[7] Section 3J(4) and (5)

Insert after section 3J(3)—

- (4) TAM is authorised to delegate a function of TAM to TfNSW.
- (5) TAM may accept a delegation of the functions of TfNSW.

[8] Section 3K Disclosure of information by agencies to TfNSW

Insert after section 3K(1)—

- (1A) TAM is authorised to disclose information held by it to TfNSW if the disclosure is for the purpose of assisting TfNSW to exercise its functions under this or another Act.

[9] Section 3K(2)

Insert “or TAM” after “agency concerned”.

[10] Part 2

Omit the part. Insert instead—

Part 2 Transport Asset Manager

Division 1 Constitution and objectives of Transport Asset Manager

4 Establishment of Transport Asset Manager

- (1) The corporation constituted under section 4 immediately before its substitution by the *Transport Administration Amendment Act 2024* is

continued by this section with the corporate name of Transport Asset Manager of New South Wales.

- (2) On and from the substitution of this section—
- (a) the corporate name of Transport Asset Holding Entity of New South Wales is changed to Transport Asset Manager of New South Wales, and
 - (b) that body, for all purposes, including the rules of private international law, continues in existence under its new name so that its identity is not affected, and
 - (c) TAM is a NSW Government agency.

Note— The *Interpretation Act 1987*, section 53 deals with the alteration of a name or constitution of a statutory body.

5 Objectives of TAM

- (1) The principal objective of TAM is to undertake its activities in a safe and reliable way.
- (2) The other objectives of TAM are as follows—
 - (a) to be a successful business and, to that end—
 - (i) to operate at least as efficiently as comparable businesses, and
 - (ii) to maximise the net worth of the State's investment in TAM,
 - (b) to exhibit a sense of social responsibility by having regard to the interests of the community in which TAM operates,
 - (c) if TAM's activities affect the environment—to conduct its operations in compliance with the principles of ecologically sustainable development set out in the *Protection of the Environment Administration Act 1991*, section 6(2),
 - (d) to exhibit a sense of responsibility towards regional development and decentralisation in the way in which TAM operates.
- (3) The other objectives of TAM are of equal importance, but are not as important as the principal objective of the corporation.

6 Common objectives and service delivery priorities

- (1) TAM must also, in the exercise of its functions, have regard to the common objectives of public transport agencies set out in section 2B(1).
- (2) TAM must determine its service delivery priorities, having regard to the Minister's expectations for service delivery established by a Statement of Expectations issued annually to it by the Minister.

Division 2 Functions of Transport Asset Manager

7 Functions of TAM

- (1) The functions of TAM are as follows—
 - (a) to hold, manage, operate and maintain transport assets vested in or owned by it, or to be vested in or owned by it,
 - (b) to establish, finance, acquire, construct and develop transport assets to be vested in or owned by it,
 - (c) to promote and facilitate access to the part of the NSW rail network vested in or owned by TAM in accordance with a current NSW rail access undertaking or otherwise lease or make available transport assets vested in or owned by TAM to other persons or bodies,

- (d) to acquire and develop land to enable TAM to carry out its other functions, including the acquisition of land under sections 8 and 9,
 - (e) to sell, lease or otherwise dispose of land vested in or owned by it,
 - (f) to make and enter into contracts or arrangements with other persons to enable TAM to carry out its other functions,
 - (g) to appoint agents, and act as agents for other persons,
 - (h) to make and enter into contracts or arrangements with a public transport agency to enable TAM to exercise its functions in relation to assets vested in or owned by the public transport agency,
 - (i) with the approval of the Minister, to dispose of vehicles, vessels, wharves, engines, carriages, plant, machinery or equipment vested in or owned by TAM.
- (2) TAM may—
- (a) provide facilities or services that are necessary, ancillary or incidental to its functions, and
 - (b) conduct a business or activity, whether or not related to its functions under subsection (1), that it considers will further its objectives.
- (3) TAM also has the other functions that are conferred or imposed on it by or under another Act or law.
- (4) TAM cannot employ staff.
- (5) If TfNSW gives written notification to TAM of the way in which it exercises the TfNSW functions listed in Schedule 1, Parts 1 and 2, TAM must, in the exercise of its functions, have regard to the information in the notification.
- (6) The Minister may authorise TAM to carry out its functions outside of the State.

8 Other property development functions of TAM

- (1) TAM may, with the approval of the Minister, carry out, finance, develop, manage or otherwise participate in, including by entering into joint venture arrangements, development for residential, retail, commercial, industrial, mixed use, community, public open space or recreational purposes on land vested in it, or to be vested or owned by it.
- (2) TAM may, for the purposes referred to in subsection (1), acquire land by agreement, including an interest in land.
- (3) The imposition or conferral of a function on TAM by this section does not limit the imposition or conferral of a function by another provision of this Act.

9 Acquisition of land by TAM

- (1) TAM may, for any purposes of TAM, acquire land, including an interest in land, by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
- (2) The other purposes for which land may be acquired under subsection (1) include for the purposes of a future sale, lease or disposal that enables TAM to exercise its functions in relation to land under this Act.
- (3) For the *Public Works and Procurement Act 1912*—
 - (a) an acquisition of land under subsection (1) is taken to be an authorised work, and

- (b) TAM is, in relation to the authorised work, taken to be the Constructing Authority.
- (4) TAM must not give a proposed acquisition notice under the *Land Acquisition (Just Terms Compensation) Act 1991* without the approval of the Minister.
- (5) An acquisition is not void merely because it is expressed to be for the purposes of TAM or for the purposes of this Act.
- (6) The *Public Works and Procurement Act 1912*, Part 3 does not apply in relation to works constructed for the purposes of this section.

Division 3 Management of TAM

10 Chief Executive of TAM

- (1) The Minister may appoint a Chief Executive of TAM.
- (2) Despite section 68C(3), the Minister may, subject to this Act or another Act or law, exercise on behalf of the Government the employer functions of the Government in relation to the Chief Executive.
- (3) Accordingly, a reference to the Transport Secretary in this Act or another Act or law in connection with the exercise of employer functions in relation to the Chief Executive is to be read as a reference to the Minister.
- (4) Part 7, Division 4 does not apply to the Chief Executive.
Note— Schedule 2 contains ancillary provisions relating to the Chief Executive.

11 Chief Executive to manage TAM

- (1) The affairs of TAM must be managed and controlled by the Chief Executive of TAM in accordance with any directions of the Minister under section 3B.
- (2) An act, matter or thing done in the name of, or on behalf of, TAM by the Chief Executive is taken to have been done by TAM.

12 TAM advisory board

- (1) TAM is to have an advisory board.
- (2) The TAM advisory board must provide advice to—
 - (a) TAM, on the matters referred to it by TAM, and
 - (b) the Minister, on the matters referred to it by the Minister.
- (3) The TAM advisory board consists of the following—
 - (a) at least 3, but not more than 7, board members appointed by the Minister,
 - (b) the Transport Secretary.
- (4) The board members must be persons who, in the Minister's opinion, will assist TAM to achieve its objectives.
- (5) One of the board members is, in and by the member's instrument of appointment or in and by another instrument executed by the Minister, to be appointed as chairperson of the TAM advisory board.
- (6) The Chief Executive of TAM must not be appointed as a board member, but may be invited by the advisory board to attend meetings.
- (7) The Minister may remove a board member, or the chairperson, from office at any time for any or no reason and without notice.

Division 4 General

13 Corporate plans

- (1) TAM must, at least 3 months before the beginning of each financial year, prepare and give to the Minister a draft corporate plan for the financial year.
- (2) TAM must—
 - (a) consider comments on the draft corporate plan that were made by the Minister within 2 months after the draft plan was given to the Minister, and
 - (b) give the completed corporate plan to the Minister before the beginning of the financial year.
- (3) TAM must make a draft plan available for public comment for at least 30 days and must have regard to submissions it receives about the draft plan within that period.
- (4) The arrangements for obtaining or inspecting the draft plan and for making submissions must be publicly advertised.
- (5) TAM must make the completed corporate plan available for public inspection.
- (6) However, TAM is not required to include in a draft or completed plan made available for public comment or inspection commercially sensitive information or that it would otherwise not be required to disclose under the *Government Information (Public Access) Act 2009*.
- (7) TAM must, as far as practicable, exercise its functions in accordance with the relevant corporate plan.
- (8) A corporate plan must specify—
 - (a) the separate activities of TAM and, in particular, the separate commercial and non-commercial activities, and
 - (b) the objectives of each separate activity for the financial year and for future financial years, and
 - (c) the strategies, policies and budgets for achieving the objectives in relation to each separate activity, and
 - (d) the targets and criteria for assessing TAM's performance, and
 - (e) details of the following that are proposed or expected to occur during the financial year—
 - (i) a sale or other disposal of land vested in or owned by TAM,
 - (ii) a lease of that land of more than 5 years duration.
- (9) This section is subject to requirements made by or under this Act, including the requirements of a direction by the Minister under this Act.

14 Additional information to be included in annual report

The annual report for TAM for a financial year must specify—

- (a) details of the following that occurred during the financial year that were not specified as proposed or expected in the corporate plan for the financial year—
 - (i) a sale or other disposal of land vested in or owned by TAM,
 - (ii) a lease of that land of more than 5 years duration, and

- (b) details of the following that did not occur during the financial year that were specified as proposed or expected in the corporate plan for the financial year—
 - (i) a sale or other disposal of land vested in or owned by TAM,
 - (ii) a lease of that land of more than 5 years duration.

15 Delegation of functions of TAM

- (1) TAM may delegate to an authorised person any of its functions, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person a function delegated by TAM if the delegate is authorised in writing to do so by TAM.
- (3) In this section—

authorised person means—

 - (a) a member of staff of TAM, or
 - (b) a person of a class prescribed by the regulations or approved by the Minister.

16 TAM to supply information to Minister

TAM must—

- (a) give the Minister, or a person nominated by the Minister, the information relating to its activities that the Minister or person may require, and
- (b) keep the Minister informed of the general conduct of its activities and significant developments in its activities.

[11] Section 36C Other functions of Sydney Trains

Omit “TAHE” from section 36C(2)(e). Insert instead “TAM”.

[12] Section 37C Other functions of NSW Trains

Omit “TAHE” from section 37C(2)(e). Insert instead “TAM”.

[13] Section 55A Definition of “transport authority”

Insert after section 55A(a)—

- (b) TAM,

[14] Section 65 Definitions

Insert after the definition of *transport authority*, paragraph (a1)—

- (b) TAM,

[15] Section 68C Employment in the Transport Service

Insert after section 68C(1)(b)—

- (c) TAM,

[16] Section 68Q Miscellaneous provisions relating to the Transport Service

Insert “TAM,” after “the State Transit Authority,” wherever occurring in section 68Q(5) and (6).

[17] Section 68Q(10)(c)

Insert after section 68Q(10)(b)—

- (c) TAM or a public subsidiary corporation of TAM is to be read as a reference to a person employed in the Transport Service to enable TAM, or the public subsidiary corporation, to exercise its functions, or

[18] Part 8 Financial provisions

Insert before Division 2—

Division 1 Financial provisions relating to Transport Asset Manager

69 TAM Fund

There is established in the Special Deposits Account a fund called the TAM Fund.

70 Payments into TAM Fund

The following must be paid into the TAM Fund—

- (a) money received by or on account of TAM,
- (b) money advanced to TAM by the Treasurer,
- (c) money—
 - (i) appropriated by Parliament for the purposes of TfNSW and allocated to TAM by TfNSW, or
 - (ii) otherwise appropriated by Parliament for the purposes of TAM,
- (d) the proceeds of the investment of money in the Fund,
- (e) other money required by or under this Act or another Act to be paid into the Fund.

71 Payments from TAM Fund

The following must be paid from the TAM Fund—

- (a) payments made on account of TAM or otherwise required to meet expenditure incurred in relation to the functions of TAM,
- (b) other payments required by or under this Act or another Act to be paid from the Fund.

[19] Section 81A Definition

Insert before the definition of *Authority*, paragraph (a1)—

- (a) TAM,

[20] Section 88A Definitions

Omit “TAHE” from the definition of *rail authority*. Insert instead “TAM”.

[21] Section 88G Severance of rail infrastructure facilities and from leased or licensed land

Omit “TAHE” wherever occurring in section 88G(1) and (2). Insert instead “TAM”.

[22] Section 89 Definitions

Omit “TAHE” from the definition of *rail authority*. Insert instead “TAM”.

- [23] **Section 89, definition of “State rail operator”**
Omit “TAHE”. Insert instead “TAM”.
- [24] **Section 94 Transfers of assets, rights and liabilities**
Omit “TAHE” wherever occurring in section 94(10). Insert instead “TAM”.
- [25] **Section 107 Definition of “transport authority”**
Insert before section 107(1)(a2)—
(a) TAM, or
- [26] **Section 109 Seals of Authorities**
Insert before section 109(2), definition of *Authority*, paragraph (a1)—
(a) TAM,
- [27] **Section 112 Personal liability of certain persons**
Insert “TAM,” before “the State Transit Authority” in section 112(2), definition of *member of a transport authority*, paragraph (a).
- [28] **Section 112(2), definition of “member of a transport authority”**
Insert after paragraph (e)—
(f) a member of the TAM advisory board.
- [29] **Section 115 Recovery of charges etc by transport authority**
Omit “TAHE” from section 115(2). Insert instead “TAM”.
- [30] **Section 116 Liability of vehicle owner for parking offences on Authority’s land**
Omit “TAHE” from section 116(7), definition of *parking offence*.
Insert instead “TAM”.
- [31] **Schedule 1 Functions of Transport for NSW**
Omit “TAHE” wherever occurring in clause 1(i). Insert instead “TAM”.
- [32] **Schedule 1, clause 4A(4)**
Omit “TAHE” from the definition of *transport authority*, paragraph (a).
Insert instead “TAM”.
- [33] **Schedule 1, clause 5(7)**
Omit “TAHE”. Insert instead “TAM”.
- [34] **Schedule 2 Provisions relating to Chief Executives**
Insert before clause 1, definition of *Chief Executive*, paragraph (c)—
(a) TAM,
- [35] **Schedule 2, clause 3(5)**
Omit the subclause. Insert instead—
(5) In this clause, a reference to the Transport Secretary is, if the reference is used in relation to—

- (a) the Chief Executive of Sydney Metro—taken to be a reference to the Sydney Metro Board, or
- (b) the Chief Executive of TAM—taken to be a reference to the Minister.

[36] Schedule 4 Transfer of assets, rights and liabilities

Insert “or TAM” after “public transport agency” in clause 13(3).

[37] Schedule 4, clause 13(5)

Omit the subclause. Insert instead—

- (5) To avoid doubt, this clause extends to a transfer to or from TAM.

[38] Schedule 4, clause 14(1)(a) and (b)

Omit “TAHE” wherever occurring. Insert instead “TAM”.

[39] Schedule 6A Powers relating to rail infrastructure facilities and land

Omit “TAHE” from clause 1, definition of *rail authority*, paragraph (a).

Insert instead “TAM”.

[40] Schedule 6A, clause 1B(2)

Omit “TAHE”. Insert instead “TAM”.

[41] Schedule 6A, clause 2C(4)

Omit “TAHE”. Insert instead “TAM”.

[42] Schedule 6A, clause 13A(4A)

Omit “TAHE”. Insert instead “TAM”.

[43] Schedule 6A, clause 13A(9)

Omit “TAHE”. Insert instead “TAM”.

[44] Schedule 6B Special provisions for underground rail facilities

Omit “TAHE” from clause 1(1), definition of *rail authority*.

Insert instead “TAM”.

1.3 Savings and transitional amendment

Schedule 7 Savings, transitional and other provisions

Insert after Part 33—

Part 34 Provisions consequent on enactment of Transport Administration Amendment Act 2024

238 Agreements entered into by Cities Revitalisation and Place and Smart Places teams

An agreement, in force on the commencement of this clause, entered into by one of the following teams within the Department of Transport for and on behalf of the Crown is taken to have instead been entered into by TfNSW—

- (a) the Cities Revitalisation and Place team,
- (b) the Smart Places team.

239 Conversion of TAHE to TAM

The regulations may deal with matters relating to the conversion of TAHE to TAM, including the transfer of staff to the Transport Service.

240 Chief executive officer and other directors of TAHE

- (1) The person holding office as the chief executive officer of TAHE immediately before the commencement of this clause ceases to hold that office.
- (2) A director of TAHE, other than the chief executive officer, ceases to hold office on the commencement of this clause.
- (3) No compensation or remuneration is payable to a person as a consequence of—
 - (a) the person ceasing to hold an office by operation of this clause, or
 - (b) the effect on a person's existing contract of employment because of the operation of this clause.

241 TAM's first corporate plan

- (1) TAM must prepare its first corporate plan, in accordance with section 13, as inserted by the *Transport Administration Amendment Act 2024*, within the period approved by the Minister for the purposes of this clause.
- (2) The statement of corporate intent applicable to TAHE under the *State Owned Corporations Act 1989* immediately before the commencement of section 13 continues to apply to TAM until TAM complies with that section, subject to a direction of the Minister.

242 TAM's first annual report

- (1) Section 14 does not apply to TAM's first annual report,
- (2) However, TAM's first annual report must specify details of the following that occurred during the period concerned—
 - (a) a sale or other disposal of land vested in or owned by TAM,
 - (b) a lease of that land of more than 5 years duration, and

243 Existing authorisations

- (1) To avoid doubt, an authorisation granted to TAHE under an Act, other than this Act, or a statutory rule, and in force immediately before the commencement of this clause continues to be held by TAM on the same terms and conditions as TAHE held the authorisation immediately before the commencement.
- (2) In this clause—
authorisation includes a licence, permit, approval or consent.

Schedule 2 Consequential amendment of other legislation

2.1 Electricity Supply Act 1995 No 94

Section 12A Meaning of “distribution system”

Omit “Transport Asset Holding Entity of New South Wales” from section 12A(1), definition of *distribution system*, paragraph (a)(ii).

Insert instead “Transport Asset Manager of New South Wales”.

2.2 Local Government Act 1993 No 30

[1] Section 555 What land is exempt from all rates?

Omit “Transport Asset Holding Entity of New South Wales” from section 555(1)(g2).

Insert instead “Transport Asset Manager of New South Wales”.

[2] Section 600 Rebates in respect of certain land vested in public bodies

Omit “Transport Asset Holding Entity of New South Wales” from section 600(9), definition of *public body*.

Insert instead “Transport Asset Manager of New South Wales”.

[3] Section 742 Dispute resolution

Omit the matter relating to Transport Asset Holding Entity of New South Wales from section 742(7).

Insert instead—

- Transport Asset Manager of New South Wales

2.3 Railway Construction (Maldon to Port Kembla) Act 1983 No 112

Section 2 Interpretation

Omit “Transport Asset Holding Entity of New South Wales” from section 2(1), definition of *the Authority*.

Insert instead “Transport Asset Manager of New South Wales”.

2.4 Roads Act 1993 No 33

[1] Section 211, heading

Omit “Transport Asset Holding Entity”. Insert instead “Transport Asset Manager”.

[2] Section 211

Omit “Transport Asset Holding Entity of New South Wales” wherever occurring.

Insert instead “Transport Asset Manager of New South Wales”.

2.5 Rural Fires Act 1997 No 65

Section 100A Definitions

Omit “Transport Asset Holding Entity of New South Wales” from section 100A(1), definition of *managed land*, paragraph (c).

Insert instead “Transport Asset Manager of New South Wales”.

2.6 State Owned Corporations Act 1989 No 134

Schedule 5 Statutory SOCs

Omit “Transport Asset Holding Entity of New South Wales”.