

**STATE PLANNING AUTHORITY (AMENDMENT)
ACT.**

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 40, 1972.

An Act to make further provisions in respect of the constitution of the State Planning Authority of New South Wales and in respect of certain matters relating to the administration of that Authority; for these and other purposes to amend the State Planning Authority Act, 1963, and the Local Government Act, 1919; to validate certain matters; and for purposes connected therewith. [Assented to, 11th April, 1972.]

BE

State Planning Authority (Amendment).

No. 40, 1972 **B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title and commencement. **1.** (1) This Act may be cited as the "State Planning Authority (Amendment) Act, 1972".

(2) This section and subsection two of sections four and five of this Act shall commence upon the day upon which this Act receives the Royal Assent.

(3) This Act shall, except where otherwise expressly provided, commence on such day or days as may be appointed and notified pursuant to subsection four of this section.

(4) The Governor may, from time to time, appoint and notify by proclamation published in the Gazette the day upon which any provision of this Act specified in the proclamation shall commence and may appoint and notify different days for different provisions and the provision so notified shall commence accordingly.

(5) Notwithstanding that paragraph (a) of section three of this Act has not commenced, the Governor may exercise the power of appointing members of the Authority conferred on him by section four of the State Planning Authority Act, 1963, as amended by this Act, and the Minister or any other person or body may perform any act or do any thing which he or it is empowered or required to do under the said section four, as so amended, to enable the Governor to exercise that power.

(6) An appointment made by the Governor pursuant to subsection five of this section shall operate with effect from the commencement of paragraph (a) of section three of this Act.

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2. The State Planning Authority Act, 1963, is amended No. 40, 1972 by omitting from the provisions of that Act specified in the Schedule to this Act the word "deputy-chairman" wherever Amendment of Act No. 59, 1963. occurring and by inserting in lieu thereof the words "associate chairman".

3. The State Planning Authority Act, 1963, is further Further amendment of Act No. 59, 1963. amended—

(a) (i) by omitting paragraphs (c), (d) and (e) of Sec. 4. subsection one of section four and by (Constitution of Authority.) inserting in lieu thereof the following paragraphs :—

(c) The Authority shall consist of sixteen members, that is to say—

- (i) two members who shall, in and by the instruments by which they are appointed or by another instrument, be respectively the chairman and the associate chairman of the Authority, and one of whom shall possess the qualifications in town planning or country planning prescribed under the Local Government Act, 1919;
- (ii) one member who shall be an officer of a Government Department or statutory body under the control of the Minister for Lands and shall be nominated for appointment by that Minister;
- (iii) one member who shall be nominated by the Minister for appointment and shall have such special knowledge and experience in the operation of one or more public utility undertakings as the Minister thinks fit;

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- (iv) one member who shall be appointed from a panel of four persons, of whom one shall be a member of the Royal Australian Institute of Architects (New South Wales Chapter) nominated by that body, one shall be a member of the Institution of Engineers (Australia) nominated by that body, one shall be a member of the Institution of Surveyors (Australia) nominated by that body, and one shall be a member of the Royal Australian Planning Institute New South Wales Division nominated by that body, such nominations to be made within such period and in such manner as may, from time to time, be fixed by the Minister and notified by him to those bodies;
- (v) one member who shall be an officer of the council of an area wholly or partly within the County of Cumberland and shall be nominated by the Minister for appointment from a panel of three persons nominated by the governing body of the Local Government Association of New South Wales within such period and in such manner as may, from time to time, be fixed by the Minister and notified by him to that Association;
- (vi) one member who shall be an officer of the council of an area wholly outside the County of Cumberland and shall be nominated by the Minister for appointment from a panel of three persons nominated by the governing

body

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body of the Local Government Association of New South Wales within such period and in such manner as may, from time to time, be fixed by the Minister and notified by him to that Association; No. 40, 1972

- (vii) one member who shall be an officer of a council wholly or partly within the Eastern Division within the meaning of the Crown Lands Consolidation Act, 1913, and shall be nominated by the Minister for appointment from a panel of three persons nominated by the governing body of the Shires Association of New South Wales within such period and in such manner as may, from time to time, be fixed by the Minister and notified by him to that Association;
- (viii) one member who shall be an officer of a council wholly outside the Eastern Division within the meaning of the Crown Lands Consolidation Act, 1913, and shall be nominated by the Minister for appointment from a panel of three persons nominated by the governing body of the Shires Association of New South Wales within such period and in such manner as may, from time to time, be fixed by the Minister and notified by him to that Association;
- (ix) one member, who shall be an officer of the Council of the City of Sydney, nominated by that Council for appointment within such period and in such manner as may, from time to time, be fixed by the Minister and notified by him to that Council;

(x)

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- (x) one member who shall be nominated by the Minister for appointment to represent commerce and industry;
- (xi) one member who shall be the person for the time being holding the office of Under Secretary, The Treasury;
- (xii) one member who shall be the person for the time being holding the office of Under Secretary of the Department of Local Government;
- (xiii) one member who shall be the person for the time being holding the office of Director, Department of Decentralisation and Development;
- (xiv) one member who shall be the person for the time being holding the office of Commissioner for Main Roads;
- (xv) one member who shall be the person for the time being holding the office of Commissioner for Railways.

(d) The members referred to in subparagraphs (i) to (x), both inclusive, of paragraph (c) of this subsection shall be appointed by the Governor and in this Part a reference to an "appointed member" is a reference to a member so appointed.

(e) The chairman or the associate chairman shall, in and by the instrument by which he is appointed or by another instrument, be the Director of the Authority.

(f) In the case of the illness or absence of the chairman, the associate chairman shall act in his place, and while so acting shall have the immunities, powers, authorities and duties of the chairman.

(g)

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(g) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising the associate chairman to act in the place of the chairman; and all acts or things done or omitted by the associate chairman while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the chairman. No. 40, 1972

(h) A member referred to in subparagraph (xi), (xii), (xiii), (xiv) or (xv) of paragraph (c) of this subsection may nominate in writing a person as his deputy to attend any meeting of the Authority or of a committee or sub-committee of the Authority that that member is unable for any reason to attend and the person so nominated—

- (i) shall have and may exercise and perform at that meeting the powers, authorities, duties or functions of the member for whom he is a deputy; and
 - (ii) if he is not otherwise a member of the Authority, shall be deemed to be for the purposes of that meeting such a member.
- (ii) by omitting subsections two and three of the same section and by inserting in lieu thereof the following subsections :—

(2) An appointed member shall, subject to this Act, be appointed for such term, not exceeding seven years, as may be specified in the instrument of appointment.

(2A) An appointed member shall, if otherwise qualified, be eligible for reappointment from time to time.

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(2B) Any such reappointment shall be for such term, not exceeding seven years, as may be specified in the instrument of reappointment.

(2C) On the occurrence of a vacancy in the office of an appointed member, the Governor may appoint a person to hold office for the balance of his predecessor's term of office but—

- (a) any appointment to fill the vacant office of a member appointed under subparagraph (i) of paragraph (c) of subsection one of this section shall be made so that at least one of the members referred to in that subparagraph possesses the qualifications in town and country planning prescribed under the Local Government Act, 1919;
- (b) any appointment to fill the vacant office of a member referred to in subparagraph (ii), (iii), (ix) or (x) of paragraph (c) of subsection one of this section shall be made on the nomination of the person or body referred to in the subparagraph concerned; and
- (c) any appointment to fill the vacant office of a member referred to in subparagraph (iv), (v), (vi), (vii) or (viii) of paragraph (c) of subsection one of this section or paragraph (a) of subsection three of this section shall be made from a panel nominated for that purpose in a similar manner to the panel referred to in the subparagraph concerned.

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(2D) A person who is of or above the No. 40, 1972 age—

- (i) of sixty-five years shall not be appointed as the chairman or the associate chairman of the Authority; or
- (ii) of seventy years shall not be appointed as any other member.

(3) (a) If within the time fixed and notified by the Minister pursuant to subparagraph (iv), (v), (vi), (vii) or (viii) of paragraph (c) of subsection one of this section a panel is not constituted for the purposes of the subparagraph concerned, the Governor may appoint a member of one of the bodies or an officer of one of the councils, as the case may be, referred to in the subparagraph of paragraph (c) of subsection one of this section that relates to that panel, nominated by the Minister, to be a member of the Authority in the place of the member required to be appointed from the panel referred to in that subparagraph or in paragraph (c) of subsection (2C) of this section, as the case may be.

(b) If within the time fixed and notified by the Minister pursuant to subparagraph (ix) of paragraph (c) of subsection one of this section a person is not nominated for the purposes of that subparagraph, the Governor may appoint an officer of the Council of the City of Sydney nominated by the Minister to be a member of the Authority in place of the member required to be appointed under that subparagraph.

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(iii) by omitting from paragraph (a) of subsection six of the same section the words "having been appointed a member" and by inserting in lieu thereof the words "being a member";

(iv) by omitting from paragraph (b) of the same subsection the words "If a person" and by inserting in lieu thereof the words "If an appointed member";

(v) by inserting at the end of the same subsection the following new paragraphs :—

(e) Notwithstanding the provisions of paragraph (a) of this subsection, the oath of allegiance and declaration of office referred to in that paragraph may, without limiting the generality of subsection two of section three of the Oaths Act, 1900, be taken, made and subscribed at any hour within the State of New South Wales before any justice of the peace who is authorised by instrument in writing by the Minister for that purpose.

(f) Notwithstanding the provisions of paragraph (a) of this subsection, a member is not required to take a further oath of allegiance or to make and subscribe to the declaration of office upon his reappointment.

(g) The provisions of this section relating to the taking of an oath of allegiance and the making and subscribing to the declaration of office shall apply to a person nominated pursuant to paragraph (h) of subsection one of this section as they apply to a member, and every such person shall take an oath of allegiance and make and subscribe to a declaration of office before exercising and performing the powers, authorities, duties or functions conferred on him by that paragraph.

(h)

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(h) Notwithstanding the provisions of No. 40, 1972 paragraph (g) of this subsection, a person nominated pursuant to paragraph (h) of subsection one of this section is not required to take a further oath of allegiance or to make and subscribe to the declaration of office on being so nominated on any second or subsequent occasion.

- (vi) by omitting from subsection seven of the same section the words "A member" where firstly occurring and by inserting in lieu thereof the words "An appointed member";
- (vii) by omitting from paragraph (k) of the same subsection the words "subparagraph (ii), (iii) or (iv) of paragraph (c) of subsection one of this section, he ceases to hold the qualification by virtue of which he was appointed" and by inserting in lieu thereof the words "subparagraphs (xi) to (xv), both inclusive, of paragraph (c) of subsection one of this section, he ceases to hold the qualification by virtue of which he was a member";
- (viii) by omitting from paragraph (l) of the same subsection the word and symbols "subparagraph (vi)" wherever occurring and by inserting in lieu thereof the word and symbols "subparagraph (iv)";
- (ix) by omitting from the same subsection the words "A member shall be deemed to have vacated his office upon the day upon which he attains the age of sixty-five years." and by inserting in lieu thereof the following new paragraph :—

(n) where he is—

- (i) the chairman or the associate chairman, on the day on which he attains the age of sixty-five years; or

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(ii) any other member, on the day on which he attains the age of seventy years.

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(b) by omitting from paragraph (c) of subsection four of section five the word “Seven” and by inserting in lieu thereof the word “Nine”;

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9A-9C.

(c) by inserting next after section nine the following new sections :—

Persons not to use information obtained through association with the Authority for the purpose of personal advantage.

9A. (1) Where, through his association with the Authority, a person has knowledge of specific information relating to proposals in respect of the use of land and that information is not generally known but, if generally known, might reasonably be expected to affect materially the market price of that land, he is guilty of an offence against this Act if he—

- (a) deals, directly or indirectly, in that land for the purpose of gaining an advantage for himself by the use of that information; or
- (b) divulges that information for the purpose of enabling another person to gain an advantage by using that information to deal, directly or indirectly, in that land.

Penalty : Two thousand dollars.

(2) Where, through his association with the Authority, a person is in a position to influence any proposals made, or to be made, by the Authority in respect of the use and development of lands and does influence the proposals by securing the inclusion or alteration of any matter

in,

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in, or the exclusion or omission of any matter from, No. 40, 1972
the proposals, he is guilty of an offence against this Act if he—

- (a) does so for the purpose of gaining an advantage for himself; or
- (b) does so for the purpose of enabling another person to gain an advantage.

Penalty : Two thousand dollars.

(3) Where—

- (a) an offence under subsection one of this section is committed and an advantage referred to in that subsection is gained from any dealing in land to which the offence relates; or
- (b) an offence under subsection two of this section is committed and an advantage referred to in that subsection is gained from any dealing in land which would not have been gained if the proposals concerned had not been influenced,

any person who gained that advantage is, whether or not any person has been prosecuted for or convicted of an offence under subsection one or subsection two, as the case may be, of this section, liable to another person for the amount of any loss incurred by that other person by reason of the gaining of that advantage.

(4) Where a loss referred to in subsection three of this section is incurred by reason of an advantage gained from a dealing in land, the amount of the loss is the difference between the price at which the dealing was effected and—

- (a) in the case of any dealing to which subsection one of this section relates, the price that, in the opinion of the court

before

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before which it is sought to recover the amount of the loss, would have been the market price of the land at the time of the dealing if the specific information used to gain that advantage had been generally known at that time; or

- (b) in any case to which subsection two of this section relates, the price that, in the opinion of the court before which it is sought to recover the amount of the loss, would have been the market price of the land at the time of the dealing if the proposals concerned had not been influenced.

(5) An action to recover a loss or profit referred to in subsection three of this section may not be brought after the expiration of five years next succeeding the dealing in land to which the transaction relates.

(6) For the purposes of this section, a person is associated with the Authority—

- (a) if he is a member or servant of the Authority or a person appointed to a committee or a sub-committee of the Authority established under section fifteen of this Act, or to a regional planning committee;
- (b) if he is an officer or servant of a council;
- (c) if he acts or has acted as banker, solicitor, auditor or professional adviser or in any other capacity for the Authority or a council;
- (d) where the person, so associated by virtue of paragraph (c) of this subsection, is a corporation, if he is a director, manager or secretary of that corporation.

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9B. (1) If a member of the Authority or a member of a committee or a sub-committee established under section fifteen of this Act, or a member of a regional planning committee appointed under section twenty-three of this Act, has an interest directly or indirectly in land, proposals in respect of the development and use of which are to be considered by the Authority, the committee, sub-committee or regional planning committee, as the case may be, and is present at a meeting of the Authority, the committee, sub-committee or regional planning committee, as the case may be, at which such proposals are the subject of consideration, he shall, at the meeting, as soon as practicable after the commencement thereof, disclose his interest and shall not take part in the consideration or discussion of or vote on any question with respect to such proposals.

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Disclosure
of interest.

(2) For the purposes of this section a person shall (subject as hereafter in this subsection provided) be treated as having indirectly an interest in land if—

- (a) he, or any nominee of his, is a member of a company or other body which has an interest in the land;
- (b) he is a partner, or is in the employment, of a person who has an interest in the land :

Provided that—

- (i) this subsection shall not apply to membership of or employment under any council or statutory body within the meaning of the Local Government Act, 1919;
- (ii) a member of a company or other body shall not, by reason of his membership, be treated as being so interested, if he has no beneficial interest in any shares of that company or other body;

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(iii) a member of a company having not less than twenty-five members shall not be treated as having an interest in land by reason only that that company has an interest in the land.

(3) In the case of married persons living together the interest of one spouse shall, if known to the other, be deemed, for the purpose of this section, to be also an interest of that other spouse.

(4) A general notice given in writing to the secretary of the Authority by any member referred to in subsection one of this section to the effect that he or his spouse is a member, or in the employment, of a specified company or other body, or that he or his spouse is a partner or in the employment, of a specific person, shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any land in which that company or other body has an interest, which may be the subject of consideration after the date of the notice.

(5) The secretary of the Authority shall record in a book to be kept for the purpose particulars of any disclosure made under subsection one of this section and of any notice given under subsection four thereof and the book shall be open at all reasonable hours to the inspection of any person on payment of such fees as may be determined by the Authority, from time to time.

(6) Subject to subsection seven of this section, if any person fails to comply with the provisions of subsection one of this section he shall be guilty of an offence unless he proves that he did not know that proposals in respect of the development and use of the land in which he had an interest was the subject of consideration at the meeting.

Penalty : Four hundred dollars.

(7)

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(7) The Minister may, subject to such conditions as he thinks fit to impose, remove any disability imposed by subsection one of this section in any case in which the number of members referred to in subsection one of this section so disabled at any one time would be so great a proportion of the whole of the members of the Authority, or a committee, sub-committee or regional planning committee, as the case may be, as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the public interest that the disability should be removed.

(8) The Authority, or a committee, sub-committee or regional planning committee, may, by resolution, provide for the exclusion of any member thereof from a meeting of the Authority, committee, sub-committee or regional planning committee, as the case may be, while proposals, in respect of any lands in which that person has such an interest as aforesaid, are under consideration.

(9) In this section "shares" includes stock.

(10) The provisions of this section apply to a member of a council in relation to an interest in land held by him, directly or indirectly, proposals in respect of the development and use of which are to be considered by the council at a meeting of the council, as they apply to a member of the Authority having an interest, directly or indirectly, in land, proposals in respect of the development and use of which are to be considered by the Authority at a meeting of the Authority.

9c. No person shall, unless the Authority otherwise determines, disclose any information with regard to the business discussed at any meeting of

the

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the Authority, of a committee, including a committee appointed under Part IV of this Act, or of a sub-committee of the Authority.

Penalty : Four hundred dollars.

Further amendment of Act No. 59, 1963.

4. (1) The State Planning Authority Act, 1963, is further amended—

Sec. 12.
(Responsibilities, powers, authorities, duties and functions of the Authority.)

(a) by inserting in paragraph (e) of section twelve after the word "Act" the words "or as are related to or incidental or consequential to powers, authorities, duties and functions conferred or imposed on a member or servant of the Authority by or under the Height of Buildings (Metropolitan Police District) Act, 1912,";

(b) by inserting in the same paragraph after the words "Height of Buildings (Metropolitan Police District) Act, 1912," the words "or the Local Government Act, 1919".

(2) The amendment made by paragraph (a) of subsection one of this section shall be deemed to have commenced on the eighth day of December, one thousand nine hundred and sixty-seven.

Further amendment of Act No. 59, 1963.

5. (1) The State Planning Authority Act, 1963, is further amended—

Sec. 15.
(Sub-committees.)

(a) (i) by omitting subsections one and two of section fifteen and by inserting in lieu thereof the following subsections :—

(1) The Authority may establish committees for the purposes of advising the Authority upon such matters within the scope of the Authority's responsibilities, powers, authorities, duties and functions as may be referred to the committees by the Authority.

(1A)

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(1A) The Authority, or a committee No. 40, 1972 referred to in subsection one of this section with the approval of the Authority, may establish sub-committees for the purposes of advising such committees upon such matters within the scope of the committee's responsibilities, powers, authorities, duties and functions as may be referred to the sub-committees by the Authority or by such a committee with the approval of the Authority.

(1B) A person may be appointed to any such committee or sub-committee whether or not he is a member of the Authority or of a regional planning committee.

(1C) The office of member of any such committee or sub-committee shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

(1D) A majority of members of a committee or of a sub-committee shall form a quorum and any duly convened meeting at which a quorum is present shall be competent to transact any business of the committee or sub-committee and shall have and may exercise and discharge all the powers, authorities, duties and functions of the committee or sub-committee, as the case may be.

(1E) A decision of a majority of members present at a meeting of any such committee or sub-committee shall be the decision of the committee or sub-committee, as the case may be.

(2) No act or proceeding of any such committee or sub-committee shall be invalidated or prejudiced by reason only of
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the fact that, at the time when such act or proceeding was done, taken or commenced, there was a vacancy in the membership of the committee or sub-committee, as the case may be.

(2A) The chairman, or the associate chairman, of the authority, if not appointed as a member of such a committee or sub-committee, shall, by virtue of being chairman or associate chairman, be a member of such committee or sub-committee, as the case may be.

(2B) One of the members of each committee or sub-committee shall, in and by the instrument by which he is appointed, be the chairman of the committee or sub-committee, as the case may be.

(2C) The frequency of meetings of committees or sub-committees and the procedure for the conduct of business at such meetings shall be as determined by the Authority.

(2D) The chairman of a committee or sub-committee shall preside at all meetings of a committee or sub-committee and, in addition to a deliberative vote shall, in the event of an equality of votes, have a second or casting vote.

(2E) This section does not apply to a regional planning committee.

- (ii) by inserting in subsection three of the same section before the word "sub-committee" wherever occurring the words "committee or of a";

(b)

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(b) by inserting at the end of section seventeen the following new subsection :—

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Sec. 17.

(Resump-
tion.)

(2) Without prejudice to the generality of subsection one of this section, the Public Works Act, 1912, shall, for the purposes of that subsection and not otherwise, be deemed to be amended in the following manner :—

- (a) (i) by omitting from section fifty-three the words “so seised, possessed or entitled as aforesaid”;
 - (ii) by omitting from the same section the words “as in the preceding section mentioned” and by inserting in lieu thereof the words “and may claim compensation in respect of the land resumed and agree to settle and determine with the Constructing Authority the amount of such compensation”;
 - (iii) by inserting in subsection three of the same section after the word “release” the words “and to claim, agree to, and settle and determine with the Constructing Authority the amount of compensation”;
 - (iv) by omitting subsection five of the same section.
- (b) (i) by inserting in section one hundred and two after the word “time” where secondly occurring the words “as the Constructing Authority allows or, in default of any such allowance of further time, within such time”;
- (ii) by omitting from the same section the words “and upon the Crown Solicitor”;

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(iii) by inserting at the end of the same section the following new subsection :—

(2) Upon receipt of such notice of claim, the Constructing Authority shall obtain from its solicitor a report on the title of the land in respect of which the claim has been served upon it by the claimant.

(c) by omitting from section one hundred and three the words “Crown Solicitor he shall forward the same, together with his report thereon to the Constructing Authority, who” and by inserting in lieu thereof the words “Constructing Authority it”;

(d) by omitting section one hundred and twenty-four and by inserting in lieu thereof the following section :—

124. For the purpose of ascertaining the compensation to be paid regard shall in every case be had by the Court not only to the value of the land taken but also to the damage (if any) caused by the severing of the lands taken from other lands or by the exercise of any statutory powers by the Constructing Authority otherwise injuriously affecting such other lands and the Court shall assess the compensation according to what it finds to have been the value of such lands, estate or interest at the time the notice was published in the Gazette and without being bound in any way by the amount of the valuation notified to such claimant, and without reference to any alteration in such value arising from the construction of any works upon the land taken :

Provided that the Court in ascertaining such compensation shall take into consideration and give effect to, by way of set-off

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set-off, or abatement, any enhancement in the value of the interest of any such owner in any land adjoining the land taken or severed therefrom by the construction of any works on the land taken, but in no case does this proviso operate so as to require any payment to be made by such owner to the Constructing Authority in consideration of such enhancement of value as aforesaid :

Provided also that in the case of land under the surface taken or acquired by notice in the Gazette for the purpose of constructing a subterranean tunnel no compensation shall be allowed unless—

- (a) the surface of the overlying soil is disturbed ;
 - (b) the support to such surface is destroyed or injuriously affected by the construction of such tunnel ; or
 - (c) any mines or underground working in or adjacent to such land are thereby rendered unworkable or are so affected as aforesaid.
- (e) (i) by inserting next after subsection two of section one hundred and twenty-six the following new subsection :—
- (2A) Notwithstanding subsection two of this section, interest shall be payable only from the date of service of the notice of claim unless the notice of claim is served in accordance with section one hundred and two of this Act.
- (ii) by omitting subsection three of the same section ;

(f)

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(f) (i) by omitting from subsection one of section one hundred and thirty-five the words "such conveyances" and by inserting in lieu thereof the words "conveyances or assurances of lands taken";

(ii) by omitting from subsection two of the same section the words "incurred on the part as well of the vendor as of the purchaser".

(2) The amendments made by paragraph (b) of subsection one of this section, except the parts thereof that relate to subparagraph (i) of paragraph (e) of subsection two of section seventeen of the State Planning Authority Act, 1963, shall be deemed to have commenced on the eighth day of January, one thousand nine hundred and sixty-five.

Further amendment of Act No. 59, 1963.

Sec. 21.
(Disposal of land.)

6. The State Planning Authority Act, 1963, is further amended—

(a) (i) by omitting from section twenty-one the words ", otherwise than as a responsible authority under any prescribed scheme under Part XIIA of the Local Government Act, 1919, as amended by subsequent Acts";

(ii) by inserting at the end of the same section the following new subsection :—

(2) The Authority shall not under this section sell or otherwise deal with land acquired by the Authority or vested in the Authority as responsible authority being land comprised in a public reserve, public place or cemetery or any such land held by the Authority subject to a trust.

(b)

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- (b) (i) by omitting from subsection one of section thirty-one the words "the following assets of the Authority, that is to say"; No. 40, 1972
Sec. 31.
(General Fund.)
- (ii) by inserting at the end of subsection two of the same section the following new paragraphs :—
- (c) the creation of assets and incurring and discharging liabilities not inconsistent with the purposes of the General Fund;
 - (d) payment of principal, interest and expenses in respect of moneys borrowed which are not chargeable to any fund other than the General Fund, or in respect of any loan or asset transferred to or money borrowed from a development fund in respect of a development area;
 - (e) investment for the purposes of the creation of reserves for any purposes not inconsistent with the purposes of the General Fund;
 - (f) meeting any temporary deficit in a development fund in respect of a development area.
- (c) (i) by omitting from subsection one of section thirty-two the words "assets of the Authority, that is to say"; Sec. 32.
(Development funds.)
- (ii) by inserting at the end of the same subsection the following new paragraphs :—
- (e) all moneys transferred, for any lawful purpose under this Act, from a development fund in respect of a development area to the General Fund or a development fund in respect of a development area to the Trust Fund;
 - (f) the proceeds of investments.
- (iii)

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(iii) by inserting at the end of subsection three of the same section the following new paragraphs :—

- (g) the creation of assets and incurring and discharging liabilities not inconsistent with the purposes of the development fund;
- (h) payment of principal, interest and expenses in respect of moneys borrowed which are not chargeable to any fund other than the development fund, or in respect of a loan or asset transferred from the General Fund or another development fund;
- (i) the investment of moneys for the creation of reserves for any purposes not inconsistent with the purposes of the development fund;
- (j) meeting any temporary deficit in the General Fund.

Sec. 33.
(Trust
Fund.)

(d) (i) by inserting at the end of subsection one of section thirty-three the following new paragraph :—

- (c) all moneys received as a result of the investment of the Trust Fund as authorised by this Act.

(ii) by inserting at the end of subsection two of the same section the following new paragraphs :—

- (c) by investment in securities authorised under the Trustee Act, 1925, or for the purposes and according to the trusts referred to in paragraph (b) of this subsection;

(d)

State Planning Authority (Amendment).

(d) by transfer to the General Fund or to a development fund in respect of a development area. No. 40, 1972

- (e) (i) by omitting subsection eight of section thirty-six; Sec. 36.
(Constitu-
tion of
development
areas.)
- (ii) by omitting subsection eleven of the same section and by inserting in lieu thereof the following subsection :—

(11) The Authority may, by notice published in the Gazette, notify a proposal to alter a development area constituted under this section by including therein any area or by omitting therefrom any area, and, where any area is to be so included, the provisions of this section shall apply to the notice making the addition as they apply to a notice referred to in subsection two of this section.

- (iii) by inserting at the end of the same section the following new subsections :—

(13) The Governor may, by regulation, amend—

- (a) the First Schedule to this Act; or
- (b) subsection one of section thirty-five of this Act,

by—

- (c) including therein the name of any area or by omitting therefrom the name of any area for the time being specified therein;

(d)

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(d) including therein part of any area specified, described or referred to in such a provision or by omitting therefrom part of any area for the time being specified, described or referred to therein.

(14) The First Schedule as so amended from time to time shall be the First Schedule to this Act.

(15) Subsection one of section thirty-five of this Act as so amended from time to time shall be subsection one of section thirty-five of this Act.

(16) For the purposes of this section, except in so far as the context or subject matter otherwise indicates or requires, "area" includes part of an area.

Sec. 38.
(Assessment
of councils
for the
General
Fund.)

(f) (i) by omitting subsections one, two and three of section thirty-eight and by inserting in lieu thereof the following subsections :—

(1) The Authority may, in respect of each year ending on the thirty-first day of December, serve an assessment upon each council whose name is, as at the first day of December in the year next preceding the first-mentioned year, included in the Second Schedule to this Act requiring it to pay the amount assessed in accordance with this section to the General Fund of the Authority.

(2) Where the Authority decides to make an assessment upon the council as aforesaid it shall not later than the first day of October in the year preceding that in which the

assessment

State Planning Authority (Amendment).

assessment is to be paid notify such councils No. 40, 1972 as to its intention and require each such council (if it has not already required such council to do so under subsection two of section forty-seven of this Act) to furnish to the Authority a certified statement of the unimproved capital value of all ratable land within the council's area as at the first day of January in the year preceding that in which the assessment is to be paid.

(2A) The council shall furnish such certified statement within one month after being required so to do.

(2B) The assessment of the Authority as aforesaid shall be served upon each council on, or within one month next preceding, the first day of December in the year next preceding the year in respect of which the assessed amount is to be paid.

(3) An assessment shall become due and payable in whole or by instalments on the date or dates, as the case may be, specified in the assessment but no such date shall be earlier than the thirty-first day of March in the year in respect of which the assessment is made :

Provided that the Authority may grant to any council an extension of time for payment of the assessment or any instalment thereof and in any such case the assessment or instalment shall become due and payable on the day upon which the extension of time expires.

(ii) by omitting from subsection four of the same section the word "contribution" and by inserting in lieu thereof the word "assessment";

(iii)

State Planning Authority (Amendment).

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(iii) by omitting subsections five and six of the same section and by inserting in lieu thereof the following subsections : —

(5) The assessment to be made upon any such council shall be for such amount as bears to the amount estimated by the Authority to be required to meet the outgoings from the General Fund for the year in respect of which the assessment is to be paid the same proportion as the unimproved capital value shown in the last statement furnished by the council to the Authority in pursuance of subsection two of this section or subsection two of section forty-seven of this Act, as the case may be, of the ratable land in the area of that council bears to the unimproved capital value in the statements last so furnished by all the councils whose names are included in the Second Schedule to this Act of all ratable land in the areas of all such councils, and such amount shall not, under any circumstances, exceed an amount calculated at the rate of one twenty-fourth of a cent in the dollar upon the unimproved capital value so shown in the last statement so furnished by the council.

(6) Notwithstanding subsection five of this section, the total amount to be levied under this section shall be fixed by the Authority having regard only to the amount estimated by the Authority to be required to meet any outgoings from the General Fund, after deducting from such amount any other moneys available or to become available to meet such outgoings, including the contribution by the Treasurer under section thirty-nine of this Act.

(iv)

State Planning Authority (Amendment).

- (iv) by omitting from subsection seven of the same section the word "contribution" and by inserting in lieu thereof the word "assessment";
- (v) by omitting subsection eight of the same section;
- (g) by inserting at the end of section forty-five the following new subsections :—

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Sec. 45.
(Security
for loans.)

(3) The due repayment of any moneys borrowed after the commencement of paragraph (g) of section six of the State Planning Authority (Amendment) Act, 1972, by the Authority in pursuance of this Act and of the interest thereon is hereby guaranteed by the Government.

(4) Any liability arising from such a guarantee shall be payable out of moneys provided by Parliament.

- (h) by inserting next after section forty-five the following new section :—

New sec.
45A.

45A. (1) The Authority may establish a reserve for loan repayment fund in respect of each loan or renewal loan raised by the Authority.

Reserves
for repay-
ments.

(2) The Authority shall during each year transfer to any fund so established from the revenue of the Authority a sum not less than the sum that the Authority in its application for approval of the loan specified that it proposed to transfer as aforesaid.

(3) Moneys held as reserve for loan repayment may be invested as a common fund in government securities of the Commonwealth of

Australia

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Australia or of the State of New South Wales, or in debentures, bonds, inscribed stock or other prescribed securities in any loan of the Authority, or in any securities guaranteed by the Government of the said State, or in such other securities as the Governor may approve or as may be prescribed, in each case at their current market price.

(4) Any interest or profits realised on such investments shall be added to and form part of the reserve for loan repayment fund from which the investments were made.

(5) All moneys paid into the reserve for loan repayment fund in respect of any loan or renewal loan may be applied in or towards repayment of any other loan or renewal loan but may not be applied for any other purpose until the loan or renewal loan in respect of which the fund has been established has been repaid.

(6) Where the Authority decides to cancel debentures, bonds, inscribed stock or other prescribed securities purchased from the reserve for repayment of the loan for which they were issued, the Authority shall, in addition to the sum otherwise payable to the reserve for repayment of that loan and subject to any agreement to which it is a party whereby it undertakes to pay interest at a higher rate to that reserve, pay to that interest at the rate of four and one-half per centum per annum on the face value of the cancelled securities from the date of their cancellation until the maturity of the loan.

(7) If, after a loan has been repaid, there remains in the reserve for repayment of that loan any balance, that balance shall form part of such fund as may be determined by the Authority.

(8)

State Planning Authority (Amendment).

(8) A reserve for loan repayment fund No. 40, 1972 shall not be subject to seizure in satisfaction of any debt other than the loan in respect of which the reserve was created.

- (i) (i) by omitting from subsection one of section Sec. 47. forty-seven the words "in respect of the year ending on the thirty-first day of December in the year following the year in which this Part commences, and in each ensuing year" and by inserting in lieu thereof the words "in respect of each year"; (Assessment of loan commitments.)
- (ii) by inserting at the end of subsection two of the same section the words "as at the first day of January in the firstmentioned year";
- (iii) by omitting from subsection five of the same section the words "shall be made by resolution of the Authority under seal and notice thereof";
- (j) by inserting next after section fifty-five the following New sec. 55A. new section :—

55A. (1) Any trustee unless expressly forbidden Trustees. by the instrument creating the trust may invest any trust moneys in his hands in stock issued by the Authority or in any other securities issued in accordance with this Act and the investment shall be deemed to be an investment authorised by the Trustee Act, 1925.

(2) Any debenture issued, stock inscribed or other security issued in pursuance of this Act shall be a lawful investment for any moneys which any company, council or body corporate incorporated by any Act is authorised or directed to invest in addition to any other investment authorised for the investment of such moneys.

(k)

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Sec. 57.
(Accounts
generally.)

(k) by inserting at the end of section fifty-seven the following new subsections :—

(2) The expenditure of each fund shall be charged against income and capital as nearly as may be in accordance with commercial principles.

(3) The Authority may abandon or write off in the books of account amounts in respect of which the Authority is satisfied it would not be economical to take proceedings or further proceedings for recovery.

Sec. 69.
(Delegation.)

(l) (i) by inserting next after subsection one of section sixty-nine the following new subsection :—

(1A) Without limiting the generality of subsection one of this section, the Authority may from time to time by resolution delegate such of the powers, authorities, duties or functions of the Authority as are specified in the resolution to a committee or a sub-committee of the Authority established under section fifteen of this Act.

(ii) by inserting at the end of the same section the following new subsection :—

(6) Any such delegation does not prevent the exercise of such power, authority, duty or function by the Authority.

New sec.
70A.

(m) by inserting next after section seventy the following new section :—

Proceedings
in respect
of offences.

70A. All proceedings in respect of offences against this Act shall be disposed of summarily before a stipendiary magistrate or any two justices in petty sessions.

State Planning Authority (Amendment).

7. (1) Nothing contained in paragraph (a) of section No. 40, 1972 three of this Act shall prejudice or affect the continuity of Savings. the body corporate constituted under the State Planning Authority Act, 1963, and that body corporate shall continue notwithstanding the provisions of that paragraph.

(2) Notwithstanding the amendments made by paragraph (f) of section six of this Act, the provisions of section thirty-eight of the State Planning Authority Act, 1963, as in force immediately before the commencement of that paragraph shall continue to apply in relation to requisitions for a contribution made and a contribution payable in accordance with that section as so in force.

(3) The Campbelltown Development Committee established under section fifteen of the State Planning Authority Act, 1963, as in force immediately before the commencement of paragraph (a) of section five of this Act shall be deemed to have been established and the members thereof appointed under the said section fifteen as in force at that commencement, and the provisions of that section as so in force shall apply accordingly.

(4) Nothing in subsection three of this section shall operate so as to extend the period for which, or the terms and conditions on which, a member referred to in that subsection was appointed.

8. (1) The Local Government Act, 1919, is amended— Amendment of Act No. 41, 1919.

(a) by omitting from paragraph (a) of subsection two of section 270D the words "Under Secretary, Department of Local Government, or an officer of that department" and by inserting in lieu thereof the words "Chairman of The State Planning Authority of New South Wales constituted under the State Planning Authority Act, 1963, or a member or servant of that Authority"; Sec. 270D. (Constitution of parking advisory committees.)

(b)

State Planning Authority (Amendment).

No. 40, 1972 (b) by inserting in paragraph (b) of subsection four of the same section after the word "same" the word "Authority,".

(2) Where the Under Secretary, Department of Local Government, or an officer of that Department nominated by him, is a member of a parking advisory committee constituted under section 270D of the Local Government Act, 1919, as enacted immediately before the commencement of this section, he shall be deemed to have vacated his office on that commencement and that office shall thereupon be a vacant office for the purposes of paragraph (a) of subsection six of section 270D of the Local Government Act, 1919.

(3) Nothing contained in this section shall prejudice or affect the continuity of a parking advisory committee constituted under section 270D of the Local Government Act, 1919, and any such committee shall continue notwithstanding the provisions of this section.

Sec. 2.

SCHEDULE.

(STATE PLANNING AUTHORITY ACT, 1963.)

Section.	Subsection.
4	(4)
4	(7)
4	(9)
4	(10)
4	(11)
5	(4)
14	(3)

SUPREME