



New South Wales

# Local Government Amendment (Public-Private Partnerships) Bill 2004

## Explanatory note

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

## Overview of Bill

The object of this Bill is to amend the *Local Government Act 1993* (*the Principal Act*) as follows:

- (a) to institute new requirements in relation to the participation by councils in public-private partnerships, including the requirement for councils to comply with specified procedures and processes (as set out in guidelines issued by the Director-General of the Department of Local Government) in relation to public-private partnerships,
- (b) to establish a Local Government Project Review Committee for the purposes of ensuring that the requirements set out in the guidelines are complied with by councils in relation to projects carried out under public-private partnerships,
- (c) to require a council to invite tenders before it enters into a contract to form a public-private partnership,
- (d) to provide that contracts involving entities that are formed by councils will be subject to the same tendering requirements that apply to contracts entered into by councils,

- (e) to provide that a council must not form an entity except with the Minister's consent (as is the case at present for corporations that are formed by councils),
- (f) to make other miscellaneous or consequential amendments.

## Outline of provisions

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

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

**Clause 3** is a formal provision that gives effect to the amendments to the *Local Government Act 1993* set out in Schedule 1.

## Schedule 1 Amendments

**Schedule 1 [1]** amends section 55 of the Principal Act to provide that a council will be required to invite tenders if it is proposing to enter into a contract to form a public-private partnership.

**Schedule 1 [2]** extends the operation of section 55 of the Principal Act (which requires a council to invite tenders before entering into certain kinds of contracts) so that it will also apply to contracts involving any entity formed by a council. An *entity* is defined as any partnership, trust, corporation, joint venture, syndicate or other body (whether or not incorporated). If the entity is a public-private partnership, the requirements for tendering will only apply to contracts that are not part of the project carried out under the partnership (as assessed or reviewed in accordance with proposed Part 6 of Chapter 12).

**Schedule 1 [3]** amends section 358 of the Principal Act (which currently prevents a council from forming, or from participating in the formation of, a corporation except with the Minister's consent) to provide that the requirement for the Minister's consent will also apply to the formation of any other type of entity. **Schedule 1 [4]** introduces a public interest test for obtaining the Minister's consent under section 358 in relation to both corporations and other entities. **Schedule 1 [7]** is a consequential amendment.

**Schedule 1 [5]** inserts proposed Part 6 into Chapter 12 of the Principal Act (proposed sections 400B–400N) to impose restrictions on councils forming, and carrying out projects under, public-private partnerships. The proposed Part contains the following provisions:

Proposed section 400B defines a *public-private partnership* as an entity formed by a council and a private person for the purposes of providing public infrastructure or facilities or delivering services. Proposed section 400C enables the Director-General to issue guidelines requiring specified procedures and processes (eg due diligence and risk assessment) to be followed by councils in relation to public-private partnerships. Proposed section 400D ensures that the PPP guidelines are to be made available to councils.

Proposed section 400E prevents a council from forming a public-private partnership, or from carrying out a project under a partnership, except in accordance with the proposed Part. Proposed section 400F requires a council to provide the Director-General with an assessment, prepared in accordance with the PPP guidelines, of the project to be carried out under a public-private partnership. If the project is a significant project (eg a project with an estimated total cost of more than \$50 million) or if it has a high risk, the project is to be referred to the Project Review Committee. Otherwise, the council may proceed to form the partnership (subject to obtaining the Minister's consent under section 358) and to carry out the project in accordance with the PPP guidelines. Proposed section 400G enables the Minister to intervene at any stage of the process and require a project under a public-private partnership to be reviewed by the Project Review Committee. Proposed section 400H enables the Director-General to require a council to provide an assessment of a varied project and, if of the opinion that the project has become a significant project or a high risk project, to have the project referred to the Project Review Committee. Proposed section 400I provides that if a project is required or directed to be referred to the Project Review Committee under the proposed Part, the relevant council must not form a public-private partnership to carry out the project, or continue to carry out the project, unless the Committee has been provided with an assessment of the project and is satisfied that the requirements of the PPP guidelines have been complied with in relation to the project. If the Committee is satisfied that the PPP guidelines have been complied with, the council may proceed to form the partnership or to continue to carry out the project. The Committee's decision as to whether the PPP guidelines have been complied with is final and cannot be reviewed.

Proposed section 400J establishes the Local Government Project Review Committee. It is to be chaired by the Director-General, who may appoint persons with special expertise as members (including from the private sector). Proposed section 400K exempts the State from any liability for compensation in connection with the proposed changes to the Principal Act (including any liability arising out of any conduct or statement in relation to public-private partnerships). A council will also not be liable to pay compensation to a private person if the council is prevented from forming a public-private partnership, or carrying out a project, because of the operation of the proposed Part (unless the partnership concerned is one that the council decided to form between 28 June 2004 and the commencement of the proposed Part). Proposed section 400L requires decisions by councils in relation to the formation of a public-private partnership to be made by resolution only. Proposed section 400M prevents councils and private persons from avoiding the operation of the proposed Part through the terms of any arrangement. Proposed section 400N provides that the proposed Part does not apply to public-private partnerships that councils decided to form before 28 June 2004, but it will apply to partnerships that councils decided to form after that date.

**Schedule 1 [6]** requires councils to include in their annual reports a statement of all public-private partnerships to which they were a party during the year concerned.

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**Schedule 1 [8]** inserts provisions relating to the members and procedure of the Project Review Committee, including the requirement for members to disclose any pecuniary interest that they may have in a matter that is before the Committee.

**Schedule 1 [9]** enables the regulations to make provision for or with respect to public-private partnerships.

**Schedule 1 [10]** enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

**Schedule 1 [11]** inserts relevant definitions in the Dictionary to the Principal Act.

First print



New South Wales

# Local Government Amendment (Public-Private Partnerships) Bill 2004

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New South Wales

# Local Government Amendment (Public-Private Partnerships) Bill 2004

No. , 2004

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## A Bill for

An Act to amend the *Local Government Act 1993* in relation to the participation of councils in public-private partnerships; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Local Government Amendment (Public-Private Partnerships) Act 2004</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6
<b>3 Amendment of Local Government Act 1993 No 30</b>	7
The <i>Local Government Act 1993</i> is amended as set out in Schedule 1.	8



<b>Schedule 1</b>	<b>Amendments</b>	1
	(Section 3)	2
<b>[1]</b>	<b>Section 55 What are the requirements for tendering?</b>	3
	Insert after section 55 (1) (h):	4
	(h1) a contract for the formation of a public-private partnership,	5
<b>[2]</b>	<b>Section 55 (5)–(7)</b>	6
	Insert after section 55 (4):	7
	(5) Subject to the regulations, a council must comply with the requirements of this section even though the contract concerned involves something being done to or by an entity that the council has formed or participated in forming.	8 9 10 11
	(6) However, if the entity concerned is a public-private partnership, subsection (5) has effect only to the extent that the contract is not part of a project that has been assessed or reviewed in accordance with Part 6 of Chapter 12.	12 13 14 15
	(7) For the purposes of subsections (5) and (6):	16
	<i>entity</i> means any partnership, trust, corporation, joint venture, syndicate or other body (whether or not incorporated), but does not include any such entity that is of a class prescribed by the regulations as not being within this definition.	17 18 19 20
	<i>this section</i> includes the regulations made for the purposes of this section.	21 22
<b>[3]</b>	<b>Section 358 Restrictions on formation of corporations and other entities</b>	23
	Insert “or other entity” after “corporation” wherever occurring in section 358 (1).	24 25
<b>[4]</b>	<b>Section 358 (3) and (4)</b>	26
	Insert after section 358 (2):	27
	(3) In applying for the Minister’s consent under subsection (1) (a), the council is required to demonstrate, to the Minister’s satisfaction, that the formation of, or the acquisition of the controlling interest in, the corporation or entity is in the public interest.	28 29 30 31 32
	(4) In this section, <i>entity</i> means any partnership, trust, joint venture, syndicate or other body (whether or not incorporated), but does not include any such entity that is of a class prescribed by the regulations as not being within this definition.	33 34 35 36

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<b>[5] Chapter 12, Part 6</b>	1
Insert after Part 5:	2
<b>Part 6 Public-private partnerships</b>	3
<b>Division 1 Preliminary</b>	4
<b>400B Definitions</b>	5
(1) In this Act, a reference to a <i>public-private partnership</i> is a reference to an entity formed under an arrangement between a council and a private person for the purposes of:	6
(a) providing public infrastructure or facilities (being infrastructure or facilities in respect of which the council retains a beneficial interest under the arrangement), or	7
(b) delivering services in accordance with the arrangement, or both, but does not include a reference to any such entity if it is of a class that has been excluded from the operation of this Part by the regulations.	8
(2) In this Part:	9
<i>arrangement</i> includes a contract or understanding.	10
<i>entity</i> means any partnership, trust, corporation, joint venture, syndicate or other body (whether or not incorporated).	11
<i>PPP guidelines</i> means the guidelines in force from time to time under section 400C.	12
<i>private person</i> means any person other than:	13
(a) the Government (including the State, the Crown and a Minister of the Crown), or	14
(b) a public or local authority (including a council or a State owned corporation), or	15
(c) a public sector employee or other person or body acting in an official capacity on behalf of the Government or a public or local authority.	16
<i>relevant council</i> , in relation to public-private partnership or proposed public-private partnership, means the council that has formed, or is proposing to form, the partnership.	17
<i>significant project</i> means:	18
(a) any project with an estimated total cost of more than \$50 million or such other amount as may be prescribed by the regulations, or	19
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(b)	any project in respect of which the relevant council's financial contribution, or its equity position, amounts to 25% or more of the council's annual revenue that is lawfully available for spending on facilities or services of the kind to which the project relates.	1 2 3 4 5
(3)	In determining a relevant council's financial contribution or equity position in relation to a project for the purposes of this Part, all elements of the project that the council provides are to be taken into account, including land value, the provision of non-monetary goods and services and any costs associated with the council's contractual liability in the event of the council incurring a loss under the project.	6 7 8 9 10 11 12
(4)	For the purposes of this Part, a project under a public-private partnership that is carried out in stages is to be treated as a single project. The PPP guidelines may also specify other circumstances in which related projects carried out under a public-private partnership are to be treated as a single project for the purposes of this Part.	13 14 15 16 17 18
<b>400C</b>	<b>Guidelines to be followed by councils in relation to public-private partnerships</b>	19 20
(1)	The Director-General may from time to time issue guidelines requiring specified procedures and processes to be followed by councils in relation to the formation of, and the carrying out of projects under, public-private partnerships.	21 22 23 24
(2)	Without limitation, the PPP guidelines may contain provisions requiring:	25 26
(a)	feasibility and risk assessment, and	27
(b)	the identification of appropriate governance and administrative arrangements (including appropriate management structures and auditing requirements), and	28 29 30
(c)	the undertaking of on-going risk management measures, and	31 32
(d)	due diligence in the carrying out of projects under public-private partnerships.	33 34
<b>400D</b>	<b>Ancillary provisions relating to PPP guidelines</b>	35
(1)	The PPP guidelines are to be made available to councils in such manner as the Director-General thinks appropriate.	36 37
(2)	The Director-General may from time to time amend or replace the PPP guidelines.	38 39

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<b>Division 2</b>	<b>Restrictions relating to public-private partnerships</b>	1 2
<b>400E</b>	<b>General requirements</b>	3
(1)	A council must not:	4
(a)	form a public-private partnership, or	5
(b)	carry out any project under a public-private partnership, except in accordance with this Part.	6 7
(2)	Without limiting subsection (1), a council is required to comply with the PPP guidelines at all times while carrying out a project under a public-private partnership.	8 9 10
<b>400F</b>	<b>Council to provide assessment of PPP project to Director-General</b>	11
(1)	A council must not form a public-private partnership unless the council has provided the Director-General with an assessment of the project to be carried out under the partnership.	12 13 14
(2)	In providing such an assessment, the general manager of the council is required to certify that it has been prepared in accordance with the PPP guidelines.	15 16 17
(3)	If:	18
(a)	the project to be carried out under the public-private partnership is a significant project, or	19 20
(b)	the Director-General is of the opinion, having regard to the criteria specified in the PPP guidelines, that the project has a high risk,	21 22 23
	the Director-General is to advise the council that the project is required to be referred to the Project Review Committee for review.	24 25 26
(4)	If the Director-General advises the council that the project is not required to be referred to the Project Review Committee, the council is entitled:	27 28 29
(a)	subject to obtaining the Minister's consent under section 358 (1) (a), to proceed with the formation of the public-private partnership, and	30 31 32
(b)	subject to this Division, to carry out the project that is the subject of the assessment.	33 34

<b>400G</b>	<b>Minister may require PPP project to be referred to Project Review Committee</b>	1 2
(1)	The Minister may, on such grounds as the Minister thinks fit, direct a council to refer any project that is to be carried out, or is being carried out, under a public-private partnership to the Project Review Committee for review.	3 4 5 6
(2)	Any such direction:	7
(a)	may be given at any stage in the process of forming the public-private partnership or in the carrying out of the project under the partnership, and	8 9 10
(b)	must be complied with by the council.	11
<b>400H</b>	<b>Director-General may require council to provide assessment of varied PPP project</b>	12 13
(1)	If the Director-General is of the opinion that a project that is to be carried out, or is being carried out, under a public-private partnership has been, or is proposed to be, varied in a significant manner, the Director-General may require the relevant council to provide the Director-General with an assessment of the project as varied or proposed to be varied. Section 400F (2) applies in relation to any such assessment.	14 15 16 17 18 19 20
(2)	If the Director-General is of the opinion that the project has or will become:	21 22
(a)	a significant project, or	23
(b)	a high risk project (having regard to the criteria specified in the PPP guidelines),	24 25
	the Director-General is to advise the council that the project is required to be referred to the Project Review Committee for review.	26 27 28
(3)	The relevant council must comply with a direction under subsection (1).	29 30
<b>400I</b>	<b>Review of PPP project by Project Review Committee</b>	31
(1)	If a project is required or directed to be referred to the Project Review Committee for review, the relevant council must not form a public-private partnership to carry out the project, or proceed with the carrying out of the project under a public-private partnership, unless:	32 33 34 35 36
(a)	the relevant council has provided the Project Review Committee with an assessment of the project in accordance with the PPP guidelines, and	37 38 39

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(b)	the Project Review Committee has reviewed the project and is satisfied that the requirements of the PPP guidelines have been complied with in relation to the project.	1 2 3
(2)	The relevant council has the responsibility of demonstrating to the Project Review Committee, in conducting its review of the project, that the requirements of the PPP guidelines have been complied with in relation to the project.	4 5 6 7
(3)	If the Project Review Committee advises the council that the Committee is satisfied that the requirements of the PPP guidelines have been complied with in relation to the project, the council is entitled:	8 9 10 11
(a)	to proceed with the formation of the public-private partnership (if it has not already been formed), or	12 13
(b)	subject to this Division, to proceed with the carrying out of the project.	14 15
(4)	The Project Review Committee's decision as to whether or not the relevant council has complied with the requirements of the PPP guidelines in relation to a project is final and cannot be reviewed by any court or tribunal.	16 17 18 19
<b>Division 3</b>	<b>Local Government Project Review Committee</b>	20 21
<b>400J</b>	<b>Establishment and constitution of Project Review Committee</b>	22
(1)	A Local Government Project Review Committee is established.	23
(2)	The Project Review Committee is to consist of the following members:	24 25
(a)	the Director-General (or an officer of the Department nominated by the Director-General) who is to be the chairperson of the Committee,	26 27 28
(b)	the Secretary of the Treasury (or an officer of the Treasury nominated by the Secretary),	29 30
(c)	the Director-General of the Premier's Department (or an officer of the Premier's Department nominated by that Director-General),	31 32 33
(d)	the Director-General of the Cabinet Office (or an officer of the Cabinet Office nominated by that Director-General),	34 35
(e)	the Director-General of the Department of Infrastructure, Planning and Natural Resources (or an officer of that Department nominated by the Director-General of that Department),	36 37 38 39

(f) such other persons as may be appointed by the Director-General for the purposes of enabling the Project Review Committee to exercise its functions.	1 2 3
(3) The appointment by the Director-General of persons as members of the Project Review Committee under subsection (2) (f) is to be made on the basis of the nature, or subject-matter, of the project that is before the Committee for review. In doing so, the Director-General is to ensure that any person appointed as a member has the relevant expertise to enable the Committee to properly exercise its functions in relation to the project concerned.	4 5 6 7 8 9 10 11
(4) Without limiting subsection (3), the Director-General may appoint persons from the private sector as members of the Project Review Committee.	12 13 14
(5) The Project Review Committee has such functions as are conferred or imposed on it by or under this or any other Act.	15 16
(6) Schedule 3 has effect with respect to the members and procedure of the Project Review Committee.	17 18
 <b>Division 4      Miscellaneous provisions</b>	 19
<b>400K      Compensation not payable</b>	20
(1) Compensation is not payable by or on behalf of the State arising directly or indirectly from any of the following matters occurring before or after the commencement of this Part:	21 22 23
(a) the enactment of the <i>Local Government Amendment (Public-Private Partnerships) Act 2004</i> or the operation of this Part,	24 25 26
(b) the exercise by the Minister, an officer of the Department or a member of the Project Review Committee of any function under this Part (including any failure or delay in exercising any such function),	27 28 29 30
(c) any statement or conduct in connection with public-private partnerships or this Part.	31 32
(2) Compensation is not payable by a council to any private person as a consequence of the council being prevented, by the operation of this Part, from forming a public-private partnership or from carrying out a project under a public-private partnership.	33 34 35 36
(3) However, subsection (2) does not apply in relation to a council if the public-private partnership concerned is a partnership referred to in section 400N (2).	37 38 39

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(4)	In this section:	1
	<i>compensation</i> includes damages or any other form of monetary compensation.	2
	<i>conduct</i> includes any act or omission, whether unconscionable, misleading, deceptive or otherwise.	3
	<i>statement</i> includes a representation of any kind, whether made verbally or in writing and whether negligent, false or misleading or otherwise.	4
	<i>the State</i> means the Crown within the meaning of the <i>Crown Proceedings Act 1988</i> , and includes an officer, employee or agent of the Crown or any member of the Project Review Committee.	5
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<b>400L</b>	<b>Decision by council to form public-private partnership</b>	12
	Any decision by a council in relation to the formation of a public-private partnership may only be made by resolution of the council.	13
	<b>Note.</b> Section 377 (1) provides that any function expressly required to be exercised by resolution of the council cannot be delegated.	14
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<b>400M</b>	<b>No contracting out</b>	18
	This Part applies regardless of the terms of any arrangement between a council and a private person.	19
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<b>400N</b>	<b>Application of Part</b>	21
(1)	This Part does not apply to any public-private partnership that a council resolved, before 28 June 2004, to form under an arrangement with a private person, even though the arrangement was entered into after that date.	22
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(2)	However, if a council resolved, on or after 28 June 2004 but before the commencement of this Part, to form a public-private partnership with a private person, this Part applies to and in respect of the partnership (regardless of whether the arrangement for the formation of the partnership was entered into before that commencement).	26
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<b>[6]</b>	<b>Section 428 Annual reports</b>	32
	Insert “(including public-private partnerships)” after “joint ventures” in section 428 (2) (q).	33
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<b>[7]</b>	<b>Section 625 How may councils invest?</b>	35
	Insert “or an entity within the meaning of that section” after “corporation” in section 625 (4).	36
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<b>[8] Schedule 3</b>	1
Insert after Schedule 2:	2
<b>Schedule 3 Provisions relating to members and procedure of Project Review Committee</b>	3 4 5
	(Section 400J (6)) 6
<b>1 Definitions</b>	7
In this Schedule:	8
<i>appointed member</i> means a person who is appointed by the Director-General under section 400J (2) (f) as a member of the Project Review Committee.	9 10 11
<i>Chairperson</i> means the Chairperson of the Project Review Committee.	12 13
<i>member</i> means any member of the Project Review Committee.	14
<b>2 Terms of office of appointed members</b>	15
Subject to this Schedule, an appointed member holds office for such period as is specified in the member's instrument of appointment.	16 17 18
<b>3 Part-time appointments</b>	19
Appointed members hold office as part-time members.	20
<b>4 Remuneration</b>	21
An appointed member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.	22 23 24
<b>5 Removal of appointed members</b>	25
(1) The Director-General may remove an appointed member from office at any time.	26 27
(2) A person is not entitled to any compensation if the person is removed from office under subclause (1).	28 29

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- 6 Disclosure of pecuniary interests** 1
- (1) If: 2
- (a) a member has a direct or indirect pecuniary interest in a 3  
matter being considered or about to be considered at a 4  
meeting of the Project Review Committee, and 5
- (b) the interest appears to raise a conflict with the proper 6  
performance of the member's duties in relation to the 7  
consideration of the matter, 8
- the member must, as soon as possible after the relevant facts have 9  
come to the member's knowledge, disclose the nature of the 10  
interest at a meeting of the Committee. 11
- (2) A disclosure by a member at a meeting of the Project Review 12  
Committee that the member: 13
- (a) is a member, or is in the employment, of a specified 14  
company or other body, or 15
- (b) is a partner, or is in the employment, of a specified person, 16  
or 17
- (c) has some other specified interest relating to a specified 18  
company or other body or to a specified person, 19
- is a sufficient disclosure of the nature of the interest in any matter 20  
relating to that company or other body or to that person which 21  
may arise after the date of the disclosure and which is required to 22  
be disclosed under subclause (1). 23
- (3) Particulars of any disclosure made under this clause must be 24  
recorded by the Project Review Committee in a book kept for the 25  
purpose and that book must be open at all reasonable hours to 26  
inspection by any person on payment of the fee determined by the 27  
Director-General. 28
- (4) After a member has disclosed the nature of an interest in any 29  
matter, the member must not, unless the Minister or the Project 30  
Review Committee otherwise determines: 31
- (a) be present during any deliberation of the Project Review 32  
Committee with respect to the matter, or 33
- (b) take part in any decision of the Committee with respect to 34  
the matter. 35
- (5) For the purposes of the making of a determination by the Project 36  
Review Committee under subclause (4), a member who has a 37  
direct or indirect pecuniary interest in a matter to which the 38  
disclosure relates must not: 39

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(a)	be present during any deliberation of the Committee for the purpose of making the determination, or	1 2
(b)	take part in the making by the Committee of the determination.	3 4
(6)	A contravention of this clause does not invalidate any decision of the Project Review Committee.	5 6
<b>7</b>	<b>Effect of certain other Acts</b>	7
(1)	Chapter 2 of the <i>Public Sector Employment and Management Act 2002</i> does not apply to or in respect of the appointment of an appointed member.	8 9 10
(2)	If by or under any Act provision is made:	11
(a)	requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or	12 13 14
(b)	prohibiting the person from engaging in employment outside the duties of that office,	15 16
	the provision does not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as a member.	17 18 19 20
<b>8</b>	<b>Personal liability</b>	21
	A matter or thing done or omitted to be done by the Project Review Committee, a member of the Project Review Committee or a person acting under the direction of the Project Review Committee does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.	22 23 24 25 26 27 28
<b>9</b>	<b>General procedure</b>	29
	The procedure for the calling of meetings of the Project Review Committee and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Chairperson.	30 31 32 33
<b>10</b>	<b>Quorum</b>	34
	The quorum for a meeting of the Project Review Committee is a majority of its members for the time being.	35 36

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<b>11 Presiding member</b>	1
(1) The Chairperson (or, in the absence of the Chairperson, a person elected by the members of the Project Review Committee who are present at a meeting of the Committee) is to preside at a meeting of the Committee.	2 3 4 5
(2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.	6 7
<b>12 Voting</b>	8
A decision supported by a majority of the votes cast at a meeting of the Project Review Committee at which a quorum is present is the decision of the Committee.	9 10 11
<b>13 Transaction of business outside meetings or by telephone</b>	12
(1) The Project Review Committee may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Committee for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Committee.	13 14 15 16 17
(2) The Project Review Committee may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, email, closed-circuit television or any other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.	18 19 20 21 22
(3) For the purposes of:	23
(a) the approval of a resolution under subclause (1), or	24
(b) a meeting held in accordance with subclause (2),	25
the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Project Review Committee.	26 27 28
(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Project Review Committee.	29 30 31
(5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile, email or other transmission of the information in the papers concerned.	32 33 34

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<b>[9] Schedule 6 Regulations</b>	1
Insert after clause 17:	2
<b>17A</b> Public-private partnerships (including meetings of a public-private partnership)	3 4
<b>[10] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts</b>	5 6
Insert at the end of clause 1 (1):	7
<i>Local Government Amendment (Public-Private Partnerships)         Act 2004</i>	8 9
<b>[11] Dictionary</b>	10
Insert in alphabetical order:	11
<i>Project Review Committee</i> means the Local Government Project Review Committee established under section 400J.	12 13
<i>public-private partnership</i> —see section 400B.	14