

Passed by both Houses



New South Wales

Planning Legislation Amendment (Greater Sydney Commission) Bill 2018

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council
2018

Clerk of the Parliaments



New South Wales

Planning Legislation Amendment (Greater Sydney Commission) Bill 2018

Act No , 2018

An Act to amend the *Environmental Planning and Assessment Act 1979*, the *Greater Sydney Commission Act 2015* and other legislation with respect to the functions and composition of the Greater Sydney Commission and the functions of the Natural Resources Commission; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Planning Legislation Amendment (Greater Sydney Commission) Act 2018*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Environmental Planning and Assessment Act 1979 No 203

[1] Section 2.8 Members of Commission

Insert after section 2.8 (5):

- (6) Without limiting subsection (5), the Minister may appoint as an additional member for the purposes of that subsection a person who is a member of a subcommittee of the Commission. Any such appointment may be limited to a particular matter or matters, in addition to any limitation relating to specific functions.

[2] Section 3.5 Making and review of regional strategic plans

Insert “, at the end of 2023” after “the end of 2017” in section 3.5 (4).

[3] Section 3.9 Local strategic planning statements of councils

Insert after section 3.9 (3):

- (3A) The council for an area that is in the Greater Sydney Region must not make a local strategic planning statement unless the Greater Sydney Commission has advised the council in writing that the Commission supports the statement as being consistent with the applicable regional and district strategic plans.

[4] Section 3.9 (4)

Insert “and the support of the Greater Sydney Commission if it is required by this section” after “ward”.

[5] Sections 3.22 (1) (c), 3.32 (2) (a), (b) and (d), 3.34 (2) and (5)–(7) and 3.35 (3) and (4)

Omit “or Greater Sydney Commission” wherever occurring.

[6] Section 3.30 Consultation requirements

Insert at the end of the section, before the note:

- (2) Before recommending the making of an environmental planning instrument by the Governor, the Minister must consult with the Greater Sydney Commission if:
- (a) the proposed instrument relates to land within the Greater Sydney Region, and
 - (b) the Minister is of the opinion that the proposed instrument is likely to significantly affect the implementation of a strategic plan affecting that Region.

[7] Section 3.31 Making of environmental planning instruments for local areas (LEPs)

Omit section 3.31 (3). Insert instead:

- (3) For the purposes of this Division, the following are *local plan-making authorities*:
- (a) the Minister,
 - (b) a council for its local government area if the gateway determination under this Division authorises the council to make the local environmental plan concerned.

[8] Section 3.32 Planning proposal authority

Omit “, or the Greater Sydney Commission in relation to the Greater Sydney Region,” from section 3.32 (2).

[9] Sections 3.32 (4) and 3.46 (3)–(6)

Omit “or the Greater Sydney Commission” wherever occurring.

[10] Sections 3.34 (1) and 3.35 (2)

Omit “or, if the planning proposal relates to the Greater Sydney Region, to the Greater Sydney Commission” wherever occurring.

[11] Section 3.34 Gateway determination

Insert after section 3.34 (3):

- (3A) Before making a determination under subsection (2), the Minister must refer the planning proposal to the Greater Sydney Commission if:
 - (a) the proposal relates to land within the Greater Sydney Region, and
 - (b) the Minister is of the opinion that the proposal is likely to significantly affect the implementation of a strategic plan affecting that Region.
- (3B) On referral of a proposal, the Greater Sydney Commission must, within the period specified by the Minister, advise the Minister as to whether or not the Commission supports the planning proposal.

[12] Section 3.44 Development control plans required or authorised by environmental planning instruments

Omit section 3.44 (5) (b). Insert instead:

- (b) the Minister may act in the place of the relevant planning authority to make the plan (with or without modification), but only if the environmental planning instrument concerned authorises the Minister to do so.

[13] Section 3.46 Minister may direct councils with respect to development control plans

Omit “or, if the matter relates to the Greater Sydney Region, the Greater Sydney Commission” from section 3.46 (1).

[14] Schedule 2 Provisions relating to planning bodies

Insert after clause 6 (3):

- (4) This clause does not apply if the public hearing relates to proposed development the subject of an application for development consent for which the Commission is the consent authority.

[15] Schedule 2, clause 11 (4A)

Insert after clause 11 (4):

- (4A) Despite any other provision of this clause, the Minister may, by instrument in writing, extend the term of appointment of a member of the Independent Planning Commission for the purpose of enabling the member to complete a function as a member after the time that the term would otherwise end.

Schedule 2 Amendment of Greater Sydney Commission Act 2015 No 57

[1] Section 3 Definitions

Insert “the Chief Commissioner or” after “means” in the definition of *Greater Sydney Commissioner* in section 3 (1).

[2] Section 4 Amendment of area comprising Greater Sydney Region

Insert at the end of the section:

- (2) A regulation that has the effect of extending the Greater Sydney Region to a local government area may also limit the functions of the Commission in respect of that area.

[3] Section 6 Members of Commission

Insert before section 6 (1) (a):

- (a1) a person appointed by the Minister as the Chief Commissioner of the Commission,

[4] Section 6 (1) (a)

Omit “4 persons appointed by the Minister (the *Greater Sydney Commissioners*)”.

Insert instead “up to 3 persons appointed by the Minister”.

[5] Section 6 (1) (b)

Omit “section 75AB (b)”. Insert instead “section 3.2 (b)”.

[6] Section 6 (1) (c)

Omit the paragraph. Insert instead:

- (c) each of the following (the *ex-officio members*):
- (i) the Secretary of the Department of Premier and Cabinet,
 - (ii) the Secretary of the Department of Planning and Environment,
 - (iii) the Secretary of the Department of Transport,
 - (iv) the Secretary of the Treasury,
 - (v) the Chief Executive Officer.

[7] Section 6 (2)

Omit the subsection.

[8] Section 6 (3)

Omit “3 other Greater Sydney Commissioners”.

Insert instead “Greater Sydney Commissioners appointed under subsection (1) (a)”.

[9] Section 6 (3A)

Insert after section 6 (3):

- (3A) If there are fewer than 3 persons appointed under subsection (1) (a), the Minister may appoint a person to exercise more than one of the principal responsibilities specified in subsection (3).

[10] Section 6 (4A)

Insert after section 6 (4):

- (4A) A person may be appointed as a District Commissioner to represent more than one district in the Greater Sydney Region.

[11] Section 10 Functions of Commission

Insert after section 10 (1) (a):

- (a1) to provide advice and make recommendations to the Minister administering this Act, and other Ministers with the approval of the Minister administering this Act, on matters relating to land use and infrastructure in the Greater Sydney Region,

[12] Section 10 (1) (c1)

Insert after section 10 (1) (c):

- (c1) to provide progress and assurance reports to the Minister administering this Act, and other Ministers with the approval of the Minister administering this Act, on matters relating to the preparation and implementation of any plan or proposal relating to development in the Greater Sydney Region,

[13] Section 10 (1) (d)

Omit “section 129”. Insert instead “section 7.35”.

[14] Section 10 (1) (f1)

Insert after section 10 (1) (f):

- (f1) to provide the Minister administering the Planning Act with any information, advice or reports requested by the Minister administering the Planning Act,

[15] Section 10 (1) (g)

Insert “or the Minister administering the Planning Act” after “Minister administering this Act”.

[16] Section 10 (3), note

Omit the note.

[17] Section 10A

Insert after section 10:

10A Obligation of government agencies to provide information

- (1) A government agency has an obligation to comply with a reasonable request by the Commission to provide information that is relevant to the exercise by the Commission of the Commission’s functions.
- (2) In this section:
government agency means:
- (a) a public authority constituted by or under an Act, or
 - (b) a NSW government agency, or
 - (c) a Public Service agency, or
 - (d) a council, or

(e) a State owned corporation.

[18] Section 11 Delegation of Commission's functions

Omit "Part 2" from section 11 (3) (c) and (f) wherever occurring.

Insert instead "Division 2.4".

[19] Section 11 (3) (e1)

Insert after section 11 (3) (e):

(e1) the Secretary of or other person employed in the Department of Premier and Cabinet,

[20] Section 12 Finance and Governance Committee

Insert "and the Chief Executive Officer" after "Commissioners" in section 12 (2).

[21] Sections 13 (3) (b) (i) and 21 (b)

Omit "Part 3B" wherever occurring. Insert instead "Division 3.1".

[22] Schedule 4 Savings, transitional and other provisions

Insert after Part 2:

**Part 3 Provision consequent on Planning Legislation
Amendment (Greater Sydney Commission) Act
2018**

3 Existing members of Commission

The amendments made to section 6 of this Act by the *Planning Legislation Amendment (Greater Sydney Commission) Act 2018* do not affect the appointment of a person holding office as a member of the Commission immediately before the commencement of those amendments.

Schedule 3 Amendment of other legislation

3.1 Biodiversity Conservation Act 2016 No 63

Section 8.1 Definitions: Part 8

Omit paragraph (b) of the definition of *planning authority*.

3.2 Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017

[1] Part 3

Insert after Part 2 with appropriate clause numbering:

Part 3 Provisions consequent on enactment of Planning Legislation Amendment (Greater Sydney Commission) Act 2018

Continuation of LEP-making processes for areas in Greater Sydney Region

- (1) The Minister may, on or after the commencement of this clause, make a local environmental plan that applies to a local government area in the Greater Sydney Region even though the process under Part 3 of the Act (including the preparation of the relevant planning proposal, community consultation and gateway determination) was commenced, or occurred, before that commencement.
- (2) For that purpose, anything done by or for the Greater Sydney Commission before that commencement under Part 3 of the Act in connection with the proposed plan is taken to have been done by or for the Minister.
- (3) Nothing in this clause prevents a council designated, before that commencement, as the local plan-making authority for a local environmental plan that applies to a local government area in the Greater Sydney Region from making the plan.

[2] Schedule 4 Transferred savings, transitional and other provisions—former provisions of Environmental Planning and Assessment Regulation 2000

Insert at the end of clause 49:

- (2) This clause ceases to have effect on the commencement of Schedule 1 [7] to the *Planning Legislation Amendment (Greater Sydney Commission) Act 2018*.

[3] Schedule 4, clause 50 (2)

Insert at the end of clause 50:

- (2) This clause ceases to have effect on the commencement of Schedule 1 [7] to the *Planning Legislation Amendment (Greater Sydney Commission) Act 2018*.

3.3 Local Land Services Act 2013 No 51

[1] Section 44 Periodic review and auditing of plans

Insert “the Natural Resources Commission or” after “carried out by” in section 44 (3).

[2] Section 54 Periodic review and auditing of local strategic plans

Insert “the Natural Resources Commission or” after “carried out by” in section 54 (4).

3.4 Natural Resources Commission Act 2003 No 102

[1] Section 3

Omit the section. Insert instead:

3 Object of Act

The object of this Act is to establish an independent body with broad investigating and reporting functions for the purposes of establishing a sound evidence basis for the properly informed management of natural resources in the social, economic and environmental interests of the State.

[2] Section 12 General functions

Insert “or any other” after “under this” in section 12 (2).

[3] Section 13 Specific functions

Omit section 13 (1) (c) and (d). Insert instead:

- (b) to advise on strategic or investment priorities in natural resource management in this State as required by the Minister,
- (c) to undertake audits of compliance with State-wide standards and targets for natural resource management issues,
- (d) to undertake audits and reviews of other natural resource management issues as required by the Minister,
- (d1) without limiting paragraph (d), to undertake audits and reviews relating to forestry or water management issues as required by the Minister,
- (d2) to advise on program design for natural resource management as required by the Minister,