

## CITY OF SYDNEY BILL 1988

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The objects of this Bill are—

- (a) to provide for the constitution of the Cities of Sydney and South Sydney (the City of South Sydney being formed by taking land from within the present boundaries of the City of Sydney);
- (b) to provide for the holding of elections for the 2 cities;
- (c) to provide for the transfer of staff and the division of assets and liabilities on the constitution of the 2 cities;
- (d) to establish the Central Sydney Planning Committee which is to be—
  - (i) the body responsible for the making of local environmental plans for the City of Sydney;
  - (ii) the consent authority under environmental planning law for determining applications to carry out major development within the City of Sydney; and
  - (iii) a body to facilitate the granting of authorisations by other bodies and persons which may be necessary in order to carry out major development within the City of Sydney and which may itself, in certain circumstances, grant those authorisations.and which will also take over, on a future date, certain planning functions of the Sydney Cove Redevelopment Authority and the Darling Harbour Authority; and
- (e) to provide for associated matters.

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#### PART 1—PRELIMINARY

**Clause 1** specifies 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.

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**Clause 3** provides for the Local Government Act 1919 to be referred to in the proposed Act as the Principal Act. The proposed Act (Part 4 and Schedule 1 excepted) is to be construed with, and as if it formed part of, the Principal Act but is to prevail over the Principal Act in the event of an inconsistency.

**Clause 4** defines certain expressions used in the proposed Act.

**PART 2—CONSITITUTION OF THE CITIES OF SYDNEY AND SOUTH SYDNEY**

**Division 1—City of Sydney**

**Clause 5** provides that the boundaries of the City of Sydney are to be altered by taking land from the City of Sydney, that land to be described in a proclamation.

**Clause 6** provides that the City of Sydney is not to be divided into wards.

**Clause 7** provides that the City Council is to have 7 aldermen.

**Clause 8** provides for the election of the Lord Mayor of Sydney by the aldermen instead of by the electors for the City Council.

**Division 2—City of South Sydney**

**Clause 9** constitutes the City of South Sydney and provides that its boundaries are to be described in the proclamation under clause 5.

**Clause 10** enables the division of the City of South Sydney into wards under the Principal Act.

**Clause 11** provides that the South Sydney Council is to have 9 aldermen.

**Clause 12** provides for the election of the Mayor of South Sydney by the aldermen instead of by the electors for the South Sydney Council.

**PART 3—ELECTIONS**

**Division 1—Enrolment for elections for the City Council**

**Clause 13** defines certain expressions for the purposes of the proposed Division. Among the expressions defined are those which identify the categories of electors for the City Council, namely, "owner", "ratepaying lessee", "occupier" and "resident".

**Clause 14** provides that, in place of the qualifications for electors that could otherwise apply under the Principal Act, a person has the requisite qualification of an elector for the City of Sydney if the person is—

- (a) an owner, ratepaying lessee or occupier (whether separately or as joint tenants or tenants in common) of ratable land in the City of Sydney; or
- (b) a resident of the City of Sydney.

**Clause 15** provides that if a corporation is the owner, ratepaying lessee or occupier, one natural person nominated by the corporation shall be taken to have the requisite qualification of an elector in the place of the corporation and that if the corporation fails to nominate a person, the secretary of the corporation shall be taken to have been nominated. Where the same person, or group, has a requisite qualification in respect of more than one parcel of ratable land, those parcels are to be taken to be a single parcel. A resident is to be taken not to have a requisite qualification in any other capacity.

**Clause 16** provides that of the 2 rolls which together comprise the roll of electors—

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- (a) the non-residential roll is to be the roll prepared under clause 18 of owners, ratepaying lessees and occupiers; and
- (b) the residential roll is to consist of persons who are residents of the City of Sydney.

**Clause 17** requires the town clerk of the City of Sydney to keep an up-to-date list of persons entitled to vote as owners, ratepaying lessees or occupiers, whether or not they lodge a claim for inclusion in the list. The clause provides for the public inspection of the list and the determination of objections to the inclusion of particulars in the list.

**Clause 18** requires the town clerk, after the closing date for an election, to certify the list kept under clause 17 to be an accurate and complete list of persons entitled to vote as owners, ratepaying lessees or occupiers. On its certification, the list becomes the non-residential roll of electors for the election.

**Division 2—Voting at elections for the City Council**

**Clause 19** enables a person who is qualified to vote, whether as a resident or non-resident, but whose name is not on the roll of electors, to vote in accordance with the procedure under section 56A of the Principal Act.

**Clause 20** enables the secretary of a corporation to be included in the list kept under clause 17 and the non-residential roll certified under clause 18 by reference to the secretary's office rather than by name and address and enables the secretary to vote in an election on the making of a statutory declaration.

**Clause 21** makes it compulsory for a person who is entitled to vote to record his or her vote. The clause also provides that if, under the Principal Act, voting in a poll is compulsory, a person who is entitled to vote at an election must record his or her vote at the poll.

**Division 3—First elections for Cities of Sydney and South Sydney**

**Clause 22** defines "first election", in relation to the Cities of Sydney and South Sydney, to mean the first election of aldermen for the respective cities held after the date of assent to the proposed Act.

**Clause 23** makes provision for the preparation of rolls of electors for the first elections.

**Clause 24** provides for the Minister administering this Part of the proposed Act to appoint a day or different days for the first elections.

**Clause 25** requires the Electoral Commissioner to conduct the first elections.

**Clause 26** provides that the first elections are to be treated as ordinary elections for the purposes of any Act or statutory instrument.

**Clause 27** subordinates the provisions of the Principal Act in their application to the first elections to the provisions of the proposed Act and any proclamation which may be made under section 21 (1) of the Principal Act.

**Clause 28** determines the term of office of a person elected at a first election so that subsequent elections for the Cities of Sydney and South Sydney will not get out of step with other local government elections.

**Clause 29** determines the period within which the first mayoral elections are to be held.

*City of Sydney 1988***PART 4—PLANNING IN THE CITY OF SYDNEY****Division 1—Preliminary**

**Clause 30** defines “major development” for the purposes of the proposed Part. Major development is to comprise development in the City of Sydney—

- (a) the estimated cost of which exceeds the amount prescribed by the regulations under the proposed Act; or
- (b) which, if granted unconditional consent, would not comply with any document prescribed by the regulations; or
- (c) which is Crown development or development on Crown land; or
- (d) which is City Council development or development on City Council land; or
- (e) which is prescribed by the regulations.

**Clause 31** provides that the proposed Part is to be construed with, and as if it formed part of, the Environmental Planning and Assessment Act 1979 but is to prevail over that Act in the event of an inconsistency. The clause also provides that until the amendments made by the proposed Act to the Sydney Cove Redevelopment Authority Act 1968 and the Darling Harbour Authority Act 1984 take effect, nothing in the proposed Part applies to development to which those Acts apply.

**Division 2—Constitution of the Central Sydney Planning Committee**

**Clause 32** constitutes the Central Sydney Planning Committee as a committee of the City Council and provides generally for its functions. A function exercised by the Planning Committee is to be taken to have been exercised by the City Council but the Planning Committee is not subject to the control or direction of the City Council. The Planning Committee is constituted as a corporation.

**Clause 33** provides that the Planning Committee is to have 7 members. They are to be the Lord Mayor and 2 aldermen of the City of Sydney, the Director of Planning and 3 persons appointed by the Minister.

**Clause 34** gives effect to Schedule 1 which contains provisions relating to the members and procedure of, and other matters concerning, the Planning Committee.

**Clause 35** enables the Planning Committee to have access to the records of the City Council and the use of the staff and facilities of the City Council.

**Clause 36** enables the Planning Committee to establish subcommittees.

**Clause 37** enables the Planning Committee, with the approval of the Minister, to delegate its functions.

**Division 3—Environmental planning functions of the Planning Committee**

**Clause 38** gives to the Planning Committee, to the exclusion of the City Council, the powers that the City Council would otherwise have to prepare local environmental plans.

**Clause 39** gives to the Planning Committee, to the exclusion of the City Council, the functions that the City council would otherwise have in respect of proposals to carry out major development.

**Clause 40** provides that if, under an environmental planning instrument, development consent could not be granted without the concurrence of a person other than the City Council, the Planning Committee is to forward a copy of the development application to the person.

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**Clause 41** prevents a person referred to in clause 40 from granting the concurrence but enables the person to make representations to the Planning Committee concerning the development.

**Clause 42** requires the Planning Committee, in determining a development application for the carrying out of major development to have regard to any representations made under clause 41 within 40 days.

**Clause 43** validates a development consent given by the Planning Committee despite a failure to comply with clauses 40–42.

**Clause 44** provides that sections 78–83 of the Environmental Planning and Assessment Act 1979 are not to apply to major development.

**Division 4—Other functions**

**Clause 45** defines the term “authorisation” for the purposes of the proposed Division to include a consent, licence and other authority of, or the exercise of a function by, a Minister or public authority (not being a court).

**Clause 46** enables an applicant to nominate in an application for consent to carry out major development any authorisations the applicant requires in order to carry out the development.

**Clause 47** requires the Planning Committee, on receipt of the application, to decide which (if any) of the authorisations it proposes to deal with under the proposed Division.

**Clause 48** requires the Planning Committee, if it decides to deal with an authorisation under the proposed Division, to notify the Minister or public authority concerned of its decision, to forward a copy of the development application to that Minister or public authority and to require that Minister or public authority to finally determine the matter requiring the authorisation within the time specified by the Planning Committee.

**Clause 49** provides that if the Minister or public authority concerned has not finally determined the matter requiring the authorisation within the time specified by the Planning Committee, it may give notice to that Minister or public authority of the manner in which it proposes to determine the matter in accordance with the proposed Division. The Planning Committee may determine the matter if it is not finally determined by the Minister or public authority within 14 days after the notice and its determination is to have effect in all respects as if it were a determination of that Minister or public authority.

**Clause 50** enables the Minister administering the proposed Division to direct the Planning Committee not to exercise a function under the proposed Division.

**Clause 51** enables the regulations made under clause 57 to provide for various matters relating to the operation of the proposed Division.

**PART 5—MISCELLANEOUS**

**Clause 52** gives effect to a Schedule of amendments made to various Acts as a consequence of the enactment of the proposed Act.

**Clause 53** repeals the Local Government (City of Sydney Boundaries) Act 1981.

**Clause 54** repeals the City of Sydney Act 1987.

**Clause 55** enables the amendment and revocation of proclamations made for the purposes of the proposed Act.

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**Clause 56** gives effect to a Schedule of savings, transitional and other provisions.

**Clause 57** enables the making of regulations for the purposes of the proposed Act.

## SCHEDULE 1—THE PLANNING COMMITTEE

### PART 1—MEMBERS

**Part 1** (clauses 1–12) contains provisions relating to the election and appointment of members of the Planning Committee (and their alternates) and the terms and conditions on which they hold office.

### PART 2—PROCEDURE

**Part 2** (clauses 13–17) contains provisions relating to the procedure of the Planning Committee. In particular, the Part provides for the presiding member of the Planning Committee to have a deliberative vote only and for the general application of Ordinance No. 1 (Council Meetings and General Business) under the Principal Act to meetings of the Planning Committee.

### PART 3—GENERAL

**Part 3** (clauses 18, 19) contains a presumption of regularity concerning the constitution and proceedings of the Planning Committee and provision for the authentication of its documents.

## SCHEDULE 2—AMENDMENT OF CERTAIN ACTS

**Schedule 2** contains amendments to certain Acts.

The amendments to the **Darling Harbour Authority Act 1984** remove from the Darling Harbour Authority its functions with respect to the making and amendment of development plans and the control of development with a view to transferring those functions at some time in the future to the Planning Committee.

The amendments to the **Electricity Act 1945** place the City of South Sydney in the Fifth Constituency of the Sydney County District for the purpose of electing delegates to the Sydney County Council.

The amendments to the **Local Government Act 1919** provide for the election of the Lord Mayor of Sydney by the aldermen of the City of Sydney rather than by the general electorate and create a presumption as to the correctness of any roll of electors used at any election.

The amendments to the **Sydney Cove Redevelopment Authority Act 1968** remove from the Sydney Cove Redevelopment Authority its functions with respect to the approved planning scheme under that Act and certain development control functions with a view to transferring those functions at some time in the future to the Planning Committee.

## SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

### PART 1—PRELIMINARY

**Part 1** (clause 1) defines certain terms for the purposes of the proposed Schedule. “Commissioners” means the Commissioners appointed under the City of Sydney Act 1987. “Existing employee” means an employee of the City Council immediately before the constitution of the City of South Sydney. “Transferred employee” means an existing employee who is transferred to the service of the South Sydney Council.

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**PART 2—STAFF ARRANGEMENTS**

**Part 2** (clauses 2–6) contains provisions relating to the transfer of staff of the City Council to the South Sydney Council. The Commissioners are empowered to appoint a town clerk of the City of South Sydney but, if such an appointment is not made and until an appointment is made by the South Sydney Council, the town clerk of the City of Sydney is to act in that office.

The Commissioners are also empowered to determine the arrangements for the transfer of existing employees to the service of the South Sydney Council. The arrangements are not to cause existing employees to be remunerated on terms which are less advantageous than those currently applying to them and no existing employee is to have his or her employment terminated on the ground of redundancy arising from the operation of the proposed Act.

**PART 3—DIVISION OF ASSETS ETC.**

**Part 3** (clauses 7, 8) empowers the Commissioners to make arrangements for the apportionment of the assets and liabilities of the City Council between it and the South Sydney Council. The arrangements are to embody such measures as will facilitate the financial stability of the 2 cities.

**PART 4—MAKING OF RATES ETC.**

**Part 4** (clause 9) empowers the Commissioners to determine rates and garbage collection charges for 1989 for the 2 cities.

**PART 5—PROVISIONS CONSEQUENT ON THE AMENDMENT OF THE DARLING HARBOUR AUTHORITY ACT 1984**

**Part 5** (clauses 10–16) provides for the taking over by the Planning Committee of the environmental planning and development control functions of the Darling Harbour Authority.

**PART 6—PROVISIONS CONSEQUENT ON THE AMENDMENT OF THE SYDNEY COVE REDEVELOPMENT AUTHORITY ACT 1968**

**Part 6** (clauses 17–21) provides for the taking over by the Planning Committee of the environmental planning and development control functions of the Sydney Cove Redevelopment Authority.

**PART 7—MISCELLANEOUS**

**Part 7** (clauses 22–29) provides for—

- (a) the continuing application of certain statutory instruments after the creation of the City of South Sydney (clause 22);
- (b) the ability to alter the name of the City of South Sydney (clause 23);
- (c) the exercise by the Minister of any function of the Commissioners under the proposed Act after they have ceased to hold office (clause 24);
- (d) the modification, for the purposes of the proposed Act, of provisions of the Principal Act and ordinances by proclamations under section 21 (1) of the Principal Act (clause 25);
- (e) the assumption of responsibility by the Planning Committee for draft local environmental plans and development applications for major development (clauses 26, 27);

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- (f) the validation of certain matters (clause 28); and
  - (g) the making of regulations containing other provisions of a savings or transitional nature (clause 29).
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