



New South Wales

Greater Sydney Commission Bill 2015

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

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

, 2015



New South Wales

Greater Sydney Commission Bill 2015

Act No , 2015

An Act to constitute and confer functions on the Greater Sydney Commission and to provide for the constitution of planning panels for the Greater Sydney Region; to amend the *Environmental Planning and Assessment Act 1979* to make provision in relation to strategic planning; and for other purposes.

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

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Greater Sydney Commission Act 2015*.

2 Commencement

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

3 Definitions

(1) In this Act:

Chief Commissioner means the person appointed by the Minister as the Chief Commissioner of the Commission.

Chief Executive Officer means the person employed in the Public Service as the Chief Executive Officer of the Commission.

Commission means the Greater Sydney Commission constituted under Part 2.

District Commissioner means a member of the Commission appointed under section 6 (1) (b).

ex-officio member means a member of the Commission referred to in section 6 (1) (c).

function includes a power, authority or duty, and **exercise** a function includes perform a duty.

Greater Sydney Commissioner means a member of the Commission appointed under section 6 (1) (a).

Greater Sydney Region means the region comprising the local government areas within the boundary shown on the map in Schedule 1.

Planning Act means the *Environmental Planning and Assessment Act 1979*.

Sydney planning panel means a Sydney planning panel constituted under Part 3.

(2) Notes included in this Act do not form part of this Act.

4 Amendment of area comprising Greater Sydney Region

The regulations may amend Schedule 1 to replace the map in that Schedule so as to extend or reduce the Greater Sydney Region.

Part 2 Greater Sydney Commission

Division 1 Constitution of Commission

5 Constitution of Commission

- (1) There is constituted by this Act a body corporate with the corporate name of the Greater Sydney Commission.
- (2) The Commission is a NSW Government agency.
Note. See section 13A of the *Interpretation Act 1987*.
- (3) The Commission is not subject to the control and direction of the Minister (except to the extent specifically provided for in this or any other Act).

6 Members of Commission

- (1) The Commission is to consist of the following members:
 - (a) 4 persons appointed by the Minister (the ***Greater Sydney Commissioners***), each of whom has, in the opinion of the Minister, expertise in at least one of the following areas, namely, environmental sustainability, environmental science, sustainable design, strategic planning, infrastructure planning and delivery, architecture, urban design, traffic and transport, engineering, community development and services, local government, environmental planning law, social justice, property development, community engagement, economics, tourism or heritage,
 - (b) each person appointed by the Minister to represent a district declared under section 75AB (b) of the Planning Act as a district in the Greater Sydney Region (the ***District Commissioners***), being a person who has, in the opinion of the Minister, expertise in at least one of the following areas, namely, planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, tourism or government and public administration,
 - (c) the Secretary of each of the following (the ***ex-officio members***):
 - (i) the Department of Planning and Environment,
 - (ii) the Department of Transport,
 - (iii) the Treasury.
- (2) One of the Greater Sydney Commissioners is, by the instrument of the Commissioner's appointment as a member or by a subsequent instrument executed by the Minister, to be appointed as the Chief Commissioner of the Commission.
- (3) Of the 3 other Greater Sydney Commissioners:
 - (a) one is to be appointed by the Minister as the Commissioner with principal responsibility for the activities of the Commission to the extent they relate to environmental matters, and
 - (b) one is to be appointed by the Minister as the Commissioner with principal responsibility for the activities of the Commission to the extent they relate to social matters, and
 - (c) one is to be appointed by the Minister as the Commissioner with principal responsibility for the activities of the Commission to the extent they relate to economic matters.
- (4) Before appointing a person as a District Commissioner to represent a district in the Greater Sydney Region, the Minister is to seek the advice of the local council of each local government area in that district in relation to the proposed appointment.

However, the Minister is not prevented from making an appointment if a local council fails to provide any such advice when requested to do so.

- (5) Schedule 2 contains provisions with respect to the members and procedure of the Commission.

7 Role of Chief Executive Officer

The Chief Executive Officer is responsible for the day to day management of the affairs of the Commission in accordance with any directions of the Commission.

8 Staff of Commission

- (1) Persons may be employed in the Public Service to enable the Commission to exercise its functions.

Note. Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services the Commission makes use of) may be referred to as officers or employees, or members of staff, of the Commission. Section 47A of the *Constitution Act 1902* precludes the Commission from employing staff.

- (2) The Commission may also:
- (a) arrange for the use of the services or facilities of a public authority within the meaning of the Planning Act, and
 - (b) engage such consultants as it requires to exercise its functions.

Division 2 Objectives and functions of Commission

9 Principal objectives of Commission

The principal objectives of the Commission in exercising its functions are as follows:

- (a) to lead metropolitan planning for the Greater Sydney Region,
- (b) to promote orderly development in the Greater Sydney Region, integrating social, economic and environmental considerations with regard to the principles of ecologically sustainable development contained in section 6 (2) of the *Protection of the Environment Administration Act 1991*,
- (c) to promote the alignment of Government infrastructure decision-making with land use planning,
- (d) to promote the supply of housing, including affordable housing,
- (e) to encourage development that is resilient and takes into account natural hazards,
- (f) to support ongoing improvement in productivity, liveability and environmental quality,
- (g) to provide increased opportunity for public involvement and participation in environmental planning and assessment in the Greater Sydney Regions.

10 Functions of Commission

- (1) The Commission has the following functions:
- (a) to provide advice and make recommendations to the Minister on matters relating to planning and development in the Greater Sydney Region,
 - (b) to prepare and provide reports to the Minister on the implementation (including any impediments to the implementation) of any plan or proposal relating to development in the Greater Sydney Region,
 - (c) to provide advice and make recommendations to the Minister on any impediments to the implementation of any plan or proposal relating to development in the Greater Sydney Region,

- (d) to provide advice to the Minister on the application of any development fund created under section 129 of the Planning Act in respect of land in the Greater Sydney Region,
 - (e) to assist local councils in the Greater Sydney Region and other government agencies (including an agency of the Commonwealth) on the implementation of any plan or proposal relating to development in the Greater Sydney Region,
 - (f) to provide the Minister with such information, advice or reports as the Minister may request,
 - (g) if requested to do so by a Minister other than the Minister administering this Act (the *other Minister*), to provide the other Minister with such information, advice or reports as may be requested by the other Minister.
- (2) Any such other Minister must obtain the approval of the Minister administering this Act before making a request under subsection (1) (g).
- (3) The Commission has such other functions as are conferred or imposed on it by or under this or any other Act.
- Note.** Those other functions include the power to make local environmental plans under Part 3 of the Planning Act and to prepare draft strategic plans for the Greater Sydney Region under Part 3B of that Act.
- (4) Without limiting subsection (3), the Commission may exercise functions delegated to it under any other Act.

11 Delegation of Commission's functions

- (1) The Commission may delegate to an authorised person or body any of its functions, other than this power of delegation. This power of delegation extends to a function delegated to the Commission, but only if the Commission is authorised in writing by the delegator to delegate the function.
- (2) A delegate may sub-delegate to an authorised person or body any function delegated by the Commission if the delegate is authorised in writing to do so by the Commission.
- (3) In this section, *authorised person or body* means any of the following:
- (a) a member of the Commission,
 - (b) a committee of the Commission or member of such a committee,
 - (c) a Sydney planning panel or member of such a panel,
 - (d) a member of the staff of the Commission (including the Chief Executive Officer),
 - (e) the Secretary or other person employed in the Department of Planning and Environment,
 - (f) a joint regional planning panel constituted under section 23G of the Planning Act,
 - (g) the Planning Assessment Commission constituted under section 23B of the Planning Act,
 - (h) a local council, or the general manager or other employee of a local council, for any local government area in the Greater Sydney Region,
 - (i) a person or body, or a person or body of a class, authorised by the regulations for the purposes of this section.

Division 3 Committees

12 Finance and Governance Committee

- (1) There is established a committee of the Commission to be known as the Finance and Governance Committee (the *FGC*).
- (2) The members of the FGC are the Greater Sydney Commissioners.
- (3) The FGC has the following functions:
 - (a) to advise and assist the Commission in connection with such functions of the Commission as are determined by the Minister,
 - (b) to advise and assist the Commission in connection with any of the other functions of the Commission,
 - (c) to advise and assist the Minister on each of the matters for which the Greater Sydney Commissioners have responsibility as referred to in section 6 (3).

13 Strategic Planning Committee

- (1) There is established a committee of the Commission to be known as the Strategic Planning Committee (the *SPC*).
- (2) The members of the SPC are as follows:
 - (a) the Greater Sydney Commissioners,
 - (b) the District Commissioners representing the districts of the Greater Sydney Region in respect of which the SPC is exercising its functions.
- (3) The SPC has the following functions:
 - (a) to advise and assist the Commission in connection with such functions of the Commission as may be determined by the Minister,
 - (b) if requested to do so by the Commission:
 - (i) to prepare draft strategic plans under Part 3B of the Planning Act for the Greater Sydney Region, and
 - (ii) to provide information, advice and quarterly reports on the implementation of strategic plans for the Greater Sydney Region, and
 - (iii) to advise and assist the Commission in connection with any of the other functions of the Commission.

14 Infrastructure Delivery Committee

- (1) There is established a committee of the Commission to be known as the Infrastructure Delivery Committee (the *IDC*).
- (2) The members of the IDC are as follows:
 - (a) the Greater Sydney Commissioners,
 - (b) the ex-officio members,
 - (c) the Secretary of the Ministry of Health,
 - (d) the Secretary of the Department of Education.
- (3) The Chief Commissioner may also appoint any one or more District Commissioners as additional casual members of the IDC for the purposes of exercising specific functions of the IDC in relation to a particular matter.
- (4) The IDC has the following functions:
 - (a) to advise and assist the Commission in connection with such functions of the Commission as may be determined by the Minister,

- (b) if requested to do so by the Commission:
 - (i) to provide information, advice and regular reports on the infrastructure requirements to support housing and employment opportunities in the Greater Sydney Region, and
 - (ii) to advise and assist the Commission in connection with any of the other functions of the Commission.

15 Other committees

- (1) The Commission may establish other committees to give advice and assistance to the Commission in connection with any of its functions.
- (2) A committee established by the Commission need not include a member of the Commission.

16 Subcommittees

- (1) Any committee of the Commission may establish subcommittees to assist it in connection with the exercise of any of its functions.
- (2) A subcommittee of a committee of the Commission need not include a member of the committee.

17 Procedure for committees and subcommittees

- (1) The procedure for the calling of meetings of a committee of the Commission and for the conduct of business at those meetings is to be as determined by the Commission or (subject to any determination of the Commission) by the committee.
- (2) The procedure for the calling of meetings of a subcommittee of a committee of the Commission and for the conduct of business at those meetings is to be as determined by the committee or (subject to any determination of the committee) by the subcommittee.

Part 3 Sydney planning panels

18 Constitution and functions of Sydney planning panels

- (1) The Minister may, by order published on the NSW legislation website, constitute a Sydney planning panel for the part of the Greater Sydney Region specified in the order.
- (2) The part of the Greater Sydney Region for which a Sydney planning panel is constituted may comprise the whole of the Region.
- (3) A Sydney planning panel is taken to be a joint regional planning panel under and for the purposes of the Planning Act and the instruments made under that Act. Accordingly, the provisions of or under that Act (other than section 23G (1) and Schedule 4) that apply to or in respect of a joint regional planning panel apply, subject to the regulations, to or in respect of a Sydney planning panel.

Note. Development within the area of the City of Sydney is excluded from the classes of development in respect of which a joint regional planning panel may be authorised by an environmental planning instrument to exercise the consent authority functions of a local council—see clause 2 of Schedule 4A to the Planning Act.
- (4) Section 23 (1B) of the Planning Act, in its application to a Sydney planning panel, is taken to be modified to authorise the planning panel to delegate, in accordance with that subsection, any of its functions to the general manager or other employee of a local council for a local government area situated wholly or partly in the part of the Greater Sydney Region for which the panel is constituted. Section 381 of the *Local Government Act 1993* does not apply to any such delegation to the general manager or other employee of a local council.
- (5) Subsection (4) does not limit section 23 (1B) of the Planning Act in its application to a Sydney planning panel.
- (6) If a Sydney planning panel is constituted for a part of the Greater Sydney Region, any joint regional planning panel constituted under section 23G (1) of the Planning Act for that part of the Greater Sydney Region is taken to be abolished on the constitution of the Sydney planning panel. The regulations may contain savings and transitional provisions consequent on the abolition of any such joint regional planning panel.
- (7) Schedule 3 contains provisions with respect to Sydney planning panels.

Part 4 Miscellaneous

19 Act to bind Crown

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.

20 Co-operation by local councils

A local council in the Greater Sydney Region is, if requested to do so in writing by the Commission:

- (a) to allow the Commission to have access to, and take copies of, any documents held by the council that are relevant to the functions of the Commission, and
- (b) to provide the Commission with such staff and facilities, or such other assistance, as may be required to assist the Commission in exercising its functions.

21 Annual report to include certain matters

The annual report of the Commission required to be prepared under the *Annual Reports (Statutory Bodies) Act 1984* is to include a report as to the following:

- (a) the outcomes achieved by the Commission during the reporting period,
- (b) the implementation of strategic plans made under Part 3B of the Planning Act for the Greater Sydney Region (including information about any related monitoring or evaluation undertaken by the Commission).

22 Disclosure of information

A person must not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made:

- (a) with the consent of the person from whom the information was obtained, or
- (b) in connection with the administration or execution of this Act, or
- (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings, or
- (d) in accordance with a requirement made under the *Ombudsman Act 1974*, or
- (e) with other lawful excuse.

Maximum penalty: 20 penalty units.

23 Exclusion of personal liability

- (1) A matter or thing done or omitted to be done by:
 - (a) a member of the Commission, or
 - (b) a member of a committee of the Commission or a member of a subcommittee of such a committee, or
 - (c) a member of staff of the Commission (including the Chief Executive Officer), or
 - (d) a person acting under the direction of any person referred to in paragraphs (a)–(c),

does not, if the matter or thing was done or omitted to be done in good faith for the purposes of executing this Act, subject any such member or person so acting personally to any action, liability, claim or demand.

- (2) A reference in subsection (1) to the execution of this Act includes a reference to the execution of the provisions of any other Act that confer or impose functions on the Commission or a committee of the Commission.

24 Nature of proceedings for offences

Proceedings for an offence under this Act may be dealt with summarily before the Local Court.

25 Regulations

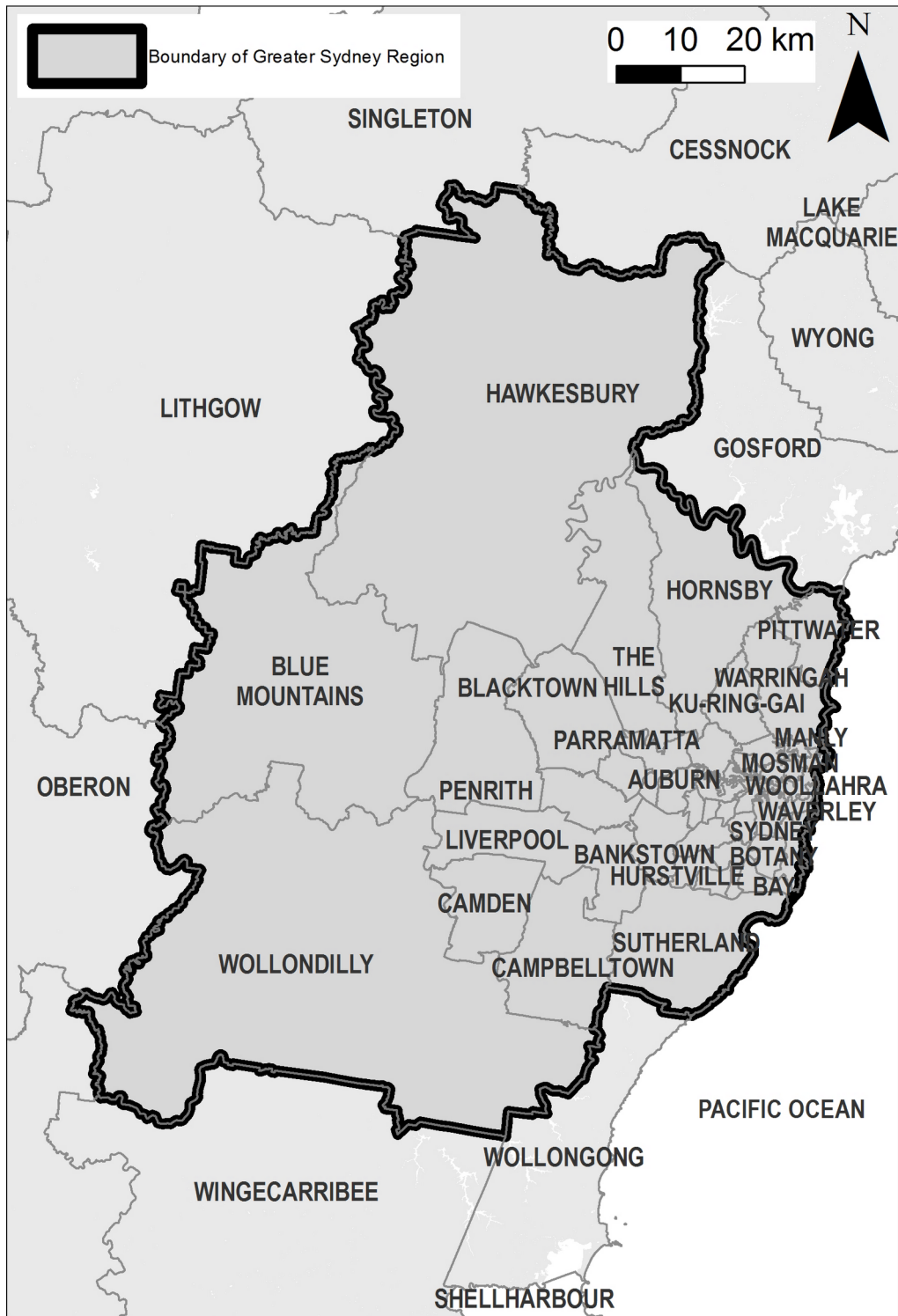
The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

26 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the commencement of this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Greater Sydney Region

(Sections 3 and 4)



Schedule 2 Members and procedure of Commission

(Section 6 (5))

1 Definitions

In this Schedule:

appointed member means a Greater Sydney Commissioner or District Commissioner.

member means any member of the Commission.

2 Terms of office of appointed members

- (1) Subject to this Schedule and the regulations, an appointed member holds office for such period (not exceeding 4 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.
- (2) An appointed member may not hold office as a member for more than 8 years in total.

3 Basis on which members are appointed

An appointed member may be appointed on either a full-time or part-time basis. The Minister may change the basis of the appointment during the member's term of office.

4 Remuneration of appointed members

- (1) A member appointed on a full-time basis is entitled to be paid such remuneration (including travelling and subsistence allowances) as is determined by the Statutory and Other Offices Remuneration Tribunal.
- (2) A member appointed on a part-time basis 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.

5 Vacancy in office of member

- (1) The office of an appointed member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause or by the Governor under Part 6 of the *Government Sector Employment Act 2013*, or
 - (e) is absent from 3 consecutive meetings of the Commission of which reasonable notice has been given to the member personally or by post, except on leave granted by the Minister or unless the member is excused by the Minister for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

- (2) The Minister may remove an appointed member from office at any time for any reason and without notice. However, the Minister must provide a written statement of the reasons for removing the member from office and make that statement publicly available.
- (3) In particular, the Minister may remove an appointed member from office if the Independent Commission Against Corruption, in a report referred to in section 74C of the *Independent Commission Against Corruption Act 1988*, recommends that consideration be given to the removal of the member from office because of corrupt conduct by the member.
- (4) The Chief Commissioner is taken to have vacated office as Chief Commissioner if he or she resigns office by instrument in writing addressed to the Minister or ceases to be a member.

6 Filling of vacancy in office of appointed member

If the office of any appointed member becomes vacant, a person is, subject to this Act and the regulations, to be appointed to fill the vacancy.

7 Disclosure of pecuniary interests

- (1) If:
 - (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Commission, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Commission.
- (2) A member has a pecuniary interest in a matter if the pecuniary interest is the interest of:
 - (a) the member, or
 - (b) the member's spouse or de facto partner or a relative of the member, or a partner or employer of the member, or
 - (c) a company or other body of which the member, or a nominee, partner or employer of the member, is a member.
- (3) However, a member is not taken to have a pecuniary interest in a matter as referred to in subclause (2) (b) or (c):
 - (a) if the member is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or
 - (b) just because the member is a member of, or is employed by, a local council or a statutory body or is employed by the Crown, or
 - (c) just because the member is a member of, or a delegate of a local council, a company or other body that has a pecuniary interest in the matter, so long as the member has no beneficial interest in any shares of the company or body.
- (4) A disclosure by a member at a meeting of the Commission that the member, or a spouse, de facto partner, relative, partner or employer of the member:
 - (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or

- (c) has some other specified interest relating to a specified company or other body or to a specified person,
is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person that may arise after the date of the disclosure and that is required to be disclosed under subclause (1).
- (5) Particulars of any disclosure made under this clause must be recorded by the Commission in a book kept for the purpose and that book must be made available for inspection by any person at any reasonable time for no charge.
- (6) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Commission otherwise determines:
- (a) be present during any deliberation of the Commission with respect to the matter, or
- (b) take part in any decision of the Commission with respect to the matter.
- (7) For the purposes of the making of a determination by the Commission under subclause (6), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
- (a) be present during any deliberation of the Commission for the purpose of making the determination, or
- (b) take part in the making by the Commission of the determination.
- (8) A contravention of this clause does not invalidate any decision of the Commission.
- (9) This clause applies to a member of a committee of the Commission and the committee in the same way as it applies to a member of the Commission and the Commission.

8 Effect of certain other Acts

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to an appointed member.
- (2) If by or under any Act provision is made:
- (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
- (b) prohibiting the person from engaging in employment outside the duties of that office,
- the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

9 General procedure

The procedure for the calling of meetings of the Commission and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Commission.

10 Quorum

The quorum for a meeting of the Commission is a majority of the members for the time being and must include:

- (a) at least one Greater Sydney Commissioner, and
- (b) at least 2 District Commissioners, and
- (c) at least one ex-officio member.

11 Presiding member

- (1) The Chief Commissioner (or, in the absence of the Chief Commissioner, a member elected by the members who are present at a meeting of the Commission) is to preside at a meeting of the Commission.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

12 Voting

A decision supported by a majority of the votes cast at a meeting of the Commission at which a quorum is present is the decision of the Commission.

13 Public meetings

The Commission may (unless the Minister otherwise directs) conduct its meetings in public, and is required to do so if the Minister directs.

14 Transaction of business outside meetings or by electronic means

- (1) The Commission may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Commission 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 Commission made at a meeting of the Commission.
- (2) The Commission may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone or other electronic means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of:
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),the Chief Commissioner and each other member have the same voting rights as they have at an ordinary meeting of the Commission.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Commission.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by electronic means.

15 Minutes of meetings

- (1) The member presiding at a meeting of the Commission must cause minutes to be kept of the proceedings of the meeting.
- (2) The Chief Executive Officer must cause the minutes of each meeting of the Commission to be published on an appropriate government website within 3 months of the meeting.

16 First meeting

The Minister may call the first meeting of the Commission in such manner as the Minister thinks fit.

Schedule 3 Sydney planning panels

(Section 18 (7))

1 Definitions

In this Schedule:

applicable council means the council of an area that is situated (wholly or partly) in a part of the Greater Sydney Region for which a Sydney planning panel is constituted.

chairperson means the person appointed by the Minister as chairperson of a Sydney planning panel.

member means a member of a Sydney planning panel.

2 Members of Sydney planning panels

- (1) A Sydney planning panel is to consist of the following 5 members:
 - (a) 3 members appointed by the Minister (the **State members**), one of whom is to be a District Commissioner,
 - (b) 2 nominees of an applicable council (the **council nominees**) who are councillors, members of council staff or other persons nominated by the council.
- (2) The State members of a Sydney planning panel are to be persons who have expertise in at least one area of planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, tourism or government and public administration. In appointing State members, the Minister is to have regard to the need to have a range of expertise represented among the panel's members.
- (3) At least one of the council nominees of a Sydney planning panel is to be a person who has expertise in at least one area of planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism.
- (4) The State member who is a District Commissioner is to be appointed by the Minister as chairperson of the Sydney planning panel.
- (5) Each applicable council is to nominate 2 persons as council nominees for the purposes of the Sydney planning panel. If an applicable council fails to nominate one or more council nominees, a Sydney planning panel is not required to include 2 council nominees for the purposes of exercising its functions in relation to the area of the council concerned.

3 Rotation of council nominees

- (1) For the purposes of exercising the functions of a Sydney planning panel in relation to a matter, the council nominees are to be those nominated by the applicable council for the land to which the matter relates.
- (2) Subject to this Schedule, a council nominee remains eligible to participate as a member of a Sydney planning panel for such period (not exceeding 4 years) as is specified in the nominee's instrument of nomination, but is eligible (if otherwise qualified) for re-nomination.

4 Rotation of chairperson of planning panel

For the purposes of exercising the functions of a Sydney planning panel in relation to a matter, the chairperson of the planning panel is to be the District Commissioner appointed under section 6 (1) (b) to represent the district in which the land to which the matter relates is situated.

5 Term of office of State members

- (1) Subject to this Schedule, a State member holds office for such period (not exceeding 4 years) as is specified in the member's instrument of appointment.
- (2) That period may be determined by reference to the occurrence of a specified event or completion of the exercise of particular functions of a Sydney planning panel.
- (3) A State member is eligible (if otherwise qualified) for re-appointment.
- (4) A person may not hold office as a State member of a Sydney planning panel for more than 8 years in total.

6 Basis of office

The office of a member is a part-time office.

7 Remuneration

A 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.

8 Deputy chairperson

- (1) The members of a Sydney planning panel may elect a State member to be the deputy chairperson of the planning panel.
- (2) The person may be elected for the duration of the person's term of office as a member or for a shorter term.

9 Alternates

- (1) The Minister may, from time to time, appoint a person to be the alternate of a State member, and may revoke any such appointment.
- (2) An applicable council may, from time to time, appoint a person to be the alternate of a member nominated by the council, and may revoke any such appointment.
- (3) In the absence of a member, the member's alternate may, if available, act in the place of the member.
- (4) While acting in the place of a member, a person has all the functions of the member and is taken to be a member.
- (5) A person while acting in the place of a 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 person.
- (6) A person may be appointed as the alternate of 2 or more members, but has only one vote at any meeting of the Sydney planning panel.

10 Vacancy in office of member

- (1) The office of a member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister or applicable council, as the case requires, or
 - (d) in the case of a council nominee, is removed from office by an applicable council under this clause or by the Minister under subclause (2), or

- (e) in the case of a State member, is removed from office by the Minister or by the Governor under Part 6 of the *Government Sector Employment Act 2013*, or
 - (f) is absent from 3 consecutive meetings of the Sydney planning panel of which reasonable notice has been given to the member personally or by post, except on leave granted by the panel or unless the member is excused by the planning panel for having been absent from those meetings, or
 - (g) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (h) becomes a mentally incapacitated person, or
 - (i) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may remove a member from office if the Independent Commission Against Corruption, in a report referred to in section 74C of the *Independent Commission Against Corruption Act 1988*, recommends that consideration be given to the removal of the member from office because of corrupt conduct by the member.
- (3) The Minister may remove a State member from office at any time for any reason and without notice. However, the Minister must provide a written statement of the reasons for removing the member from office and make that statement publicly available.
- (4) An applicable council may remove any of its council nominees from office at any time for any reason and without notice. However, the general manager of the applicable council must provide a written statement of the reasons for removing the council nominee from office and make that statement publicly available.

11 Filling of vacancy in office of member

If the office of a member becomes vacant, a person may, subject to this Act and the regulations, be appointed to fill the vacancy.

12 Chairperson

- (1) The chairperson vacates office as chairperson if he or she:
- (a) is removed from that office by the Minister, or
 - (b) resigns that office by instrument in writing addressed to the Minister, or
 - (c) ceases to be a member of the Sydney planning panel or the Commission.
- (2) The Minister may at any time remove the chairperson from office as chairperson for any or no stated reason and without notice.

13 Disclosure of pecuniary interests

- (1) If:
- (a) a member has a pecuniary interest in a matter being considered or about to be considered at a meeting of the Sydney planning panel, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,
- the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the planning panel.

- (2) A member has a pecuniary interest in a matter if the pecuniary interest is the interest of:
 - (a) the member, or
 - (b) the member's spouse or de facto partner or a relative of the member, or a partner or employer of the member, or
 - (c) a company or other body of which the member, or a nominee, partner or employer of the member, is a member.
- (3) However, a member is not taken to have a pecuniary interest in a matter as referred to in subclause (2) (b) or (c):
 - (a) if the member is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or
 - (b) just because the member is a member of, or is employed by, a council or a statutory body or is employed by the Crown, or
 - (c) just because the member is a member of, or a delegate of a council, a company or other body that has a pecuniary interest in the matter, so long as the member has no beneficial interest in any shares of the company or body.
- (4) A disclosure by a member at a meeting of the Sydney planning panel that the member, or a spouse, de facto partner, relative, partner or employer of the member:
 - (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).
- (5) Particulars of any disclosure made under this clause must be recorded by the Sydney planning panel in a book kept for the purpose and that book must be made available for inspection by any person at any reasonable time for no charge.
- (6) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Sydney planning panel otherwise determines:
 - (a) be present during any deliberation of the planning panel with respect to the matter, or
 - (b) take part in any decision of the planning panel with respect to the matter.
- (7) For the purposes of the making of a determination by the Sydney planning panel under subclause (6), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the planning panel for the purpose of making the determination, or
 - (b) take part in the making by the planning panel of the determination.
- (8) A contravention of this clause does not invalidate any decision of the Sydney planning panel.

14 Effect of certain other Acts

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a member.

- (2) If by or under any Act provision is made:
- (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
 - (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

Schedule 4 Savings, transitional and other provisions

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Schedule 5 Amendment of Environmental Planning and Assessment Act 1979 No 203

[1] Section 4 Definitions

Insert “the Greater Sydney Commission,” after “a Minister,” in paragraph (b) of the definition of *consent authority* in section 4 (1).

[2] Section 4 (1), definition of “consent authority”

Omit “that Minister, Commission, panel or authority, as the case may be” from paragraph (b).

Insert instead “that Minister or the Greater Sydney Commission, Planning Assessment Commission, panel or authority, as the case requires”.

[3] Section 4 (1)

Insert in alphabetical order:

Greater Sydney Region has the same meaning it has in the *Greater Sydney Commission Act 2015*.

[4] Section 4 (1), definition of “joint regional planning panel”

Insert at the end of the definition:

Note. See also Part 3 of the *Greater Sydney Commission Act 2015* which provides that a Sydney planning panel constituted under that Part is taken to be a joint regional planning panel under and for the purposes of this Act and the instruments made under this Act.

[5] Section 23 Delegation

Insert after section 23 (1) (e):

(e1) the Greater Sydney Commission,

[6] Section 23D Functions of Commission

Omit “this Act” from section 23D (1) (a). Insert instead “this or any other Act”.

[7] Section 23G Joint regional planning panels

Insert after section 23G (3):

(3A) Without limiting subsection (3), a regional panel may exercise functions delegated to it under this or any other Act.

[8] Section 24 Making of environmental planning instruments

Insert “, or by the Greater Sydney Commission in the case of the Greater Sydney Region,” after “(or delegate)” in section 24 (2) (b).

[9] Section 37 Governor may make environmental planning instruments (SEPPs)

Insert “or of environmental planning significance to a district within the meaning of Part 3B” after “significance” in section 37 (2).

[10] Section 53 Minister may make environmental planning instruments for local areas (LEPs)

Insert after section 53 (2):

(3) Despite subsection (1), the Minister may not make a local environmental plan in respect of any local government area in the Greater Sydney Region.

However, this subsection does not prevent the Minister from giving directions under section 117 to a council or other public authority on any matter relating to the Greater Sydney Region.

[11] Section 53A

Insert after section 53:

53A Greater Sydney Commission may make LEPs for local areas in Greater Sydney Region

- (1) The Greater Sydney Commission may make environmental planning instruments for the purposes of environmental planning in each local government area in the Greater Sydney Region. Any such instrument may be called a local environmental plan (or LEP).
- (2) For the purposes of the making of LEPs that apply to local government areas in the Greater Sydney Region, a reference to the Minister in section 15, 33B (4) or (5), 54 (1), (2) (a), (c) or (d) or (4), 56, 58, 59, 73A (1) (c), 74D (5) (b) or 74F is to be construed as a reference to the Greater Sydney Commission.

[12] Section 54 Relevant planning authority

Insert “or of environmental planning significance to a district within the meaning of Part 3B” after “significance” in section 54 (2) (a).

[13] Section 54 (2) (c1)

Insert after section 54 (2) (c):

- (c1) a recommendation has been provided under section 15 (b) that the proposed instrument should be submitted for a determination under section 56 or that the proposed instrument should be made,

[14] Part 3B

Insert before Part 4:

Part 3B Strategic planning

75AA Interpretation

- (1) In this Part:

district means a part of a region declared to be a district under section 75AB (b).

district plan means a district plan made under this Part.

region means:

- (a) the Greater Sydney Region, or
- (b) any other area declared to be a region under section 75AB (a).

regional plan means a plan made under this Part.

relevant strategic planning authority means:

- (a) in the case of the Greater Sydney Region—the Greater Sydney Commission, or
- (b) in the case of any other region—the Secretary or any other person or body prescribed by the regulations for the purposes of this paragraph.

strategic plan means a regional plan or a district plan.

- (2) For the purposes of this Part, preparing or making a strategic plan includes preparing or making a strategic plan to amend, replace or repeal a strategic plan.

75AB Declaration of regions and districts

The Minister may, by order published on the NSW planning portal, declare:

- (a) any area of the State (other than the Greater Sydney Region) to be a region for the purposes of this Part, and
- (b) any part of the Greater Sydney Region or other region to be a district for the purposes of this Part.

75AC Regional plans—preparation and content

- (1) The relevant strategic planning authority for a region may, or must if directed to do so by the Minister, prepare a draft regional plan for the region.
- (2) A draft regional plan must include or identify the following:
 - (a) the basis for strategic planning in the region, having regard to economic, social and environmental matters,
 - (b) a vision statement and objectives consistent with the vision statement,
 - (c) strategies and actions for achieving those objectives,
 - (d) the basis on which the relevant strategic planning authority is to monitor and report on the implementation of those actions,
 - (e) such other matters as the relevant strategic planning authority considers relevant to planning for the region.
- (3) In preparing a draft regional plan, the relevant strategic planning authority is to have regard to the following:
 - (a) State environmental planning policies that apply to the region,
 - (b) any other strategic plan that applies to the region,
 - (c) any 20-year State infrastructure strategy, 5-year infrastructure plan and sectoral State infrastructure strategy statement under Part 4 of the *Infrastructure NSW Act 2011*,
 - (d) any other relevant government policies and plans in force at the time the draft plan is prepared,
 - (e) in the case of a draft plan that applies to the Greater Sydney Region—any report prepared by the Strategic Planning Committee constituted under the *Greater Sydney Commission Act 2015*,
 - (f) any matter that the Minister directs the relevant strategic planning authority to have regard to in preparing the draft plan,
 - (g) any other matters the relevant strategic planning authority considers relevant.
- (4) If there is no district plan for any part of the region, the draft regional plan may identify for that part of the region matters that may be identified in a district plan (until there is a district plan).

75AD District plans—preparation and content

- (1) The relevant strategic planning authority for a region (other than the Greater Sydney Region) may, or must if directed to do so by the Minister, prepare a draft district plan for a district in the region.

- (2) If a district is declared for the Greater Sydney Region, the Greater Sydney Commission is to prepare a draft district plan for the district, and ensure that the public exhibition of the draft plan commences, within the period of 12 months after the district is declared.
- (3) A draft district plan must include or identify the following:
 - (a) the basis for strategic planning in the district, having regard to economic, social and environmental matters,
 - (b) the planning priorities for the district that are consistent with the objectives, strategies and actions specified in the regional plan for the region in respect of which the district is part,
 - (c) the actions required for achieving those planning priorities,
 - (d) the basis on which the relevant strategic planning authority is to monitor and report on the implementation of those actions,
 - (e) areas of State, regional or district significance, including priority growth areas,
 - (f) such other matters as the relevant strategic planning authority considers relevant to planning for the district.
- (4) In preparing a draft district plan, the relevant strategic planning authority is to have regard to the following:
 - (a) any environmental planning instrument applying to the district,
 - (b) any other strategic plan that applies to the district (including areas adjoining the district),
 - (c) any 20-year State infrastructure strategy, 5-year infrastructure plan and sectoral State infrastructure strategy statement under Part 4 of the *Infrastructure NSW Act 2011*,
 - (d) any other relevant government policies and plans in force at the time the draft plan is prepared,
 - (e) in the case of a draft plan that applies to a district in the Greater Sydney Region—any report prepared by the Strategic Planning Committee constituted under the *Greater Sydney Commission Act 2015*,
 - (f) any matter that the Minister directs the relevant strategic planning authority to have regard to in preparing the draft plan,
 - (g) any other matters the relevant strategic planning authority considers relevant.
- (5) If there is no regional plan for any part of the district concerned, the draft district plan may identify for that part of the district matters that may be identified in a regional plan (until there is a regional plan).

75AE Making and review of regional plans

- (1) The relevant strategic planning authority for a region may, or must if directed to do so by the Minister, submit a draft regional plan it has prepared to the Minister.
- (2) The Minister may make a regional plan in the form in which it is submitted or with such modifications as the Minister considers appropriate. The Minister may decide not to make the draft plan.

- (3) The document entitled *A Plan for Growing Sydney*, published on the website of the Department and in force as at the commencement of this Part, is taken to be the regional plan made under this Part for the Greater Sydney Region (the *initial GSR plan*).
- (4) The Greater Sydney Commission is to review the initial GSR plan before the end of 2017 and at the end of every subsequent period of 5 years.
- (5) The relevant strategic planning authority for a region other than the Greater Sydney Region is to review any regional plan for the region at such times and in such manner as the Minister may direct.
- (6) Following any review under subsection (4) or (5), the Minister may make a regional plan for the region concerned.

75AF Making of district plans

- (1) The relevant strategic planning authority for a region other than the Greater Sydney Region may, or must if directed to do so by the Minister, submit a draft district plan it has prepared to the Minister.
- (2) The Minister may make a district plan in the form in which it is submitted or with such modifications as the Minister considers appropriate. The Minister may decide not to make the draft plan.
- (3) A district plan for a district in the Greater Sydney Region may be made by the Greater Sydney Commission.
- (4) The Greater Sydney Commission is to review a district plan every 5 years after it is made by the Commission.

75AG Publication and commencement of strategic plans

A strategic plan:

- (a) must be published on the NSW planning portal, and
- (b) commences on the date of publication or a later date specified in the plan.

75AH Mandatory public exhibition requirements

- (1) A draft strategic plan must be publicly exhibited for a period of at least 45 days.
- (2) Before a proposed strategic plan is prepared for public exhibition, the relevant strategic planning authority is to give public notice of the ways in which the community can participate in the preparation of the draft plan.
- (3) In making a strategic plan, the Minister or, in the case of a district plan for a district in the Greater Sydney Region, the Greater Sydney Commission is to have regard to any submissions (or summary of submissions) that have been made about the draft strategic plan.

75AI Implementation of strategic plans

- (1) In preparing a draft district plan, the relevant strategic planning authority is to give effect to any regional plan applying to the region in respect of which the district is part.

- (2) In preparing a planning proposal under section 55, the relevant planning authority is to give effect:
 - (a) to any district plan applying to the local government area to which the planning proposal relates (including any adjoining local government area), or
 - (b) if there is no district plan applying to the local government area—to any regional plan applying to the region in respect of which the local government area is part.
- (3) As soon as practicable after a district plan is made, the council for each local government area in the district to which the plan applies must review the local environmental plans for the area and prepare such planning proposals under section 55 as are necessary to give effect to the district plan.
- (4) In addition to the requirement under subsection (3), the council for each local government area in the Greater Sydney Region must, on the making of a district plan that applies to that area, report to the Greater Sydney Commission:
 - (a) on the review by the council of the local environmental plans for the area, and
 - (b) on the preparation of planning proposals under section 55 to give effect to the district plan.

75AJ Dispensing with conditions precedent to making strategic plans

- (1) For the purposes of doing any one or more of the following, a strategic plan may be made without compliance with the conditions precedent under this Part to the making of strategic plans:
 - (a) to correct an obvious error or misdescription,
 - (b) to make changes that will not have any significant adverse impact on the environment or adjoining land,
 - (c) to make provision for matters that are, in the opinion of the Minister, of State or regional significance or of significance to a district (but only if the proposed plan has been publicly exhibited for the period determined by the Minister).
- (2) The publication of a strategic plan made in reliance on subsection (1) is to contain a statement that it is so made.

75AK Legal proceedings relating to strategic planning

- (1) In this section:
legal proceedings means proceedings for an order under Division 3 of Part 6 or any other kind of legal proceedings (other than criminal proceedings).
- (2) Legal proceedings (other than those instituted by or with the approval of the Minister) in relation to the validity of a strategic plan cannot be instituted after the period of 3 months following the publication of the strategic plan on the NSW planning portal.
- (3) The only requirement of or made under this Part in relation to a strategic plan that is mandatory is the requirement to publicly exhibit the draft plan for a period of 45 days.

- (4) Nothing in this Part prevents a local environmental plan from being made or invalidates the plan once it is made.
- (5) This section applies despite any other provision of this Act or any other Act or law.

75AL Regulations relating to strategic planning

The regulations may make provision for or with respect to the following:

- (a) the review of strategic plans,
- (b) the appointment and functions of relevant strategic planning authorities for regions other than the Greater Sydney Region,
- (c) the form and content of strategic plans (including the standardisation of the provisions of strategic plans),
- (d) requirements for the submission of reports and documents relating to the preparation and review of strategic plans,
- (e) the public exhibition and notice requirements for proposed strategic plans,
- (f) any other matter relating to the strategic planning framework under this Part (including, without limitation, the preparation, making and online delivery of strategic plans).

Schedule 6 Amendment of other Acts

6.1 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory bodies

Insert in alphabetical order:

Greater Sydney Commission

6.2 Statutory and Other Offices Remuneration Act 1975 (1976 No 4)

Schedule 2 Public offices

Insert at the end of Part 1:

Full-time appointed member of the Greater Sydney Commission