
Planning Administration Bill 2013 - exposure draft



New South Wales

Planning Administration Bill 2013

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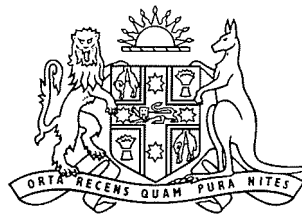
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New South Wales

Planning Administration Bill 2013

No. , 2013

A Bill for

An Act relating to the administration of planning legislation.

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Clause 1 Planning Administration Bill 2013

Part 1 Preliminary

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Planning Administration Act 2013*.

2 Commencement

This Act commences on the commencement of the *Planning Act 2013*.

3 Definitions

(1) In this Act:

Department means the Department of Planning and Infrastructure.

Director-General means the Director-General of the Department.

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

Planning Assessment Commission means the Planning Assessment Commission established under Part 4.

planning legislation means any of the following:

- (a) the *Planning Act 2013* and the instruments under that Act,
- (b) this Act and the instruments under this Act.

Planning Ministerial Corporation means the corporation established under Part 3.

regional planning panel means a regional planning panel established under Part 5.

subregional planning board means a subregional planning board established under Part 6.

(2) Words and expressions used in this Act have (subject to subsection (1)) the same meanings they have in the *Planning Act 2013*.

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

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Planning Administration Bill 2013

Clause 4

Minister and Director-General

Part 2

Part 2 Minister and Director-General

4 The Minister [cf s 7]

- (1) The Minister has portfolio responsibility for planning and the administration of the planning legislation.
- (2) The Minister has the functions conferred or imposed on the Minister under the planning legislation.

Note. The relevant Minister is the Minister to whom the administration of this Act is allocated by the Governor (see section 15 of the *Interpretation Act 1987* and the Allocation of the Administration of Acts on the NSW legislation website).

5 The Director-General [cf ss 13, 15, 17]

- (1) The Director-General has departmental responsibility for planning and the administration of the planning legislation.
- (2) The Director-General has the functions conferred or imposed on the Director-General under the planning legislation.
- (3) The Director-General may provide advice, recommendations and reports to the Minister in connection with the administration of the planning legislation (whether on the Director-General's own initiative or as required by the Minister).
- (4) The Director-General is, in the exercise of any function under the planning legislation, subject to the control and direction of the Minister (except in relation to the contents of any advice, recommendation or report made by the Director-General to the Minister).

6 Committees or panels established by Minister or Director-General [cf s 22]

- (1) The Minister or Director-General may, by order published on the NSW planning website, establish committees or panels for the purposes of the planning legislation.
- (2) The chairperson and other members of any such committee or panel are to be appointed by the Minister or Director-General (as the case requires).
- (3) The functions of any such committee or panel are to be as specified in the order by which it is established, and (without limitation) may include:
 - (a) the investigation of any matter relevant to the administration of the planning legislation, or
 - (b) the provision of advice, recommendations or reports with respect to any such matter for the Minister, the Director-General or other

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Clause 7 Planning Administration Bill 2013

Part 2 Minister and Director-General

person or body engaged in the administration of the planning legislation.

- (4) Any such committee or panel is not subject to the direction or control of the Minister (except in relation to the procedure of the committee or panel and any directions under section 10.1 of the *Planning Act 2013*).
- (5) Schedule 5 contains provisions with respect to the members and procedure of any such committee or panel.
- (6) The regulations may make provision for or with respect to the functions, members and procedure of any such committee or panel.
- (7) Any such committee or panel is a NSW Government agency, unless the order by which it is established provides that it is not a NSW Government agency.

Note. By virtue of section 13A of the *Interpretation Act 1987*, a NSW Government agency has the status, privileges and immunities of the Crown.

7 Delegation by Minister, Planning Ministerial Corporation or Director-General [cf s 23]

- (1) The Minister, Planning Ministerial Corporation or Director-General may delegate any of their functions under the planning legislation to:
 - (a) a member of staff of the Department, or
 - (b) a public authority or member of staff of a public authority, or
 - (c) a council or member of staff of a council, or
 - (d) the Planning Assessment Commission, or
 - (e) a regional planning panel or a subregional planning board, or
 - (f) a person, or person of a class, authorised for the purposes of this section by the regulations.
- (2) A reference in this section to a function under the planning legislation includes a reference to:
 - (a) a function of the Minister under any other legislation that is conferred or imposed on the Minister in his or her capacity as the Minister administering the planning legislation or in connection with the administration of the planning legislation, or
 - (b) a function of the Planning Ministerial Corporation under any other legislation, or
 - (c) a function of the Director-General under any other legislation that is conferred or imposed on the Director-General in connection with the administration of the planning legislation.
- (3) This section does not authorise the delegation of:
 - (a) the power of delegation conferred by this section, or

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Clause 7

Minister and Director-General

Part 2

- (b) the function of the Minister as consent authority to determine an application for development consent, or the function of the Minister to determine an application for approval to carry out State infrastructure development, after a public hearing held by the Planning Assessment Commission, or
- (c) the function of the Minister to declare public priority infrastructure, or
- (d) the function of the Minister to give a direction under section 10.1 of, or Part 1 of Schedule 10 to, the *Planning Act 2013*, or
- (e) the function of giving any approval of the Minister that is required under Schedule 1 for the application of money in a Planning Growth Fund.

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Clause 8 Planning Administration Bill 2013

Part 3 Planning Ministerial Corporation

Part 3 Planning Ministerial Corporation

8 Constitution and functions of Corporation [cf s 8]

- (1) There is constituted by this Act a corporation with the corporate name of the Planning Ministerial Corporation.
- (2) The Planning Ministerial Corporation has such functions as are conferred or imposed on it under the planning legislation or under any other Act.
- (3) The Planning Ministerial Corporation is a NSW Government agency.

9 Management of Corporation [cf s 8]

- (1) The affairs of the Planning Ministerial Corporation are to be managed by the Director-General in accordance with any directions of the Minister.
- (2) Any act, matter or thing done in the name of, or on behalf of, the Planning Ministerial Corporation by the Director-General, or with the authority of the Director-General, is taken to have been done by the Corporation.
- (3) The regulations may make provision with respect to the seal of the Planning Ministerial Corporation.
- (4) The annual report of the Planning Ministerial Corporation is to be published as part of the annual report of the Department.

10 Property provisions relating to Corporation

Part 1 of Schedule 1 contains property provisions relating to the Planning Ministerial Corporation.

11 Financial provisions relating to Corporation

Part 2 of Schedule 1 contains financial provisions relating to the Planning Ministerial Corporation.

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Planning Administration Bill 2013

Clause 12

Planning Assessment Commission

Part 4

Part 4 Planning Assessment Commission

12 Planning Assessment Commission [cf s 23B]

- (1) There is constituted by this Act a corporation with the corporate name of the Planning Assessment Commission of New South Wales.
- (2) The Commission is not subject to the direction or control of the Minister (except in relation to the procedure of the Commission and any directions under section 10.1 of the *Planning Act 2013*).
- (3) The Commission is a NSW Government agency.

13 Members of Commission

- (1) The Planning Assessment Commission is to consist of not less than 4 and not more than 9 members appointed by the Minister.
- (2) One member of the Commission is, in the instrument of appointment, to be appointed as chairperson of the Commission.
- (3) Each member is to 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.
- (4) In appointing a member of the Commission, the Minister is to have regard to the need to have a range of expertise represented among the Commission's members.
- (5) The Minister may appoint additional members of the Commission for the purposes of exercising specific functions of the Commission. A casual member is not required to have expertise in an area referred to in this section but is required to have expertise in an area relevant to the functions the member is to exercise.

14 Functions of Commission [cf s 23D]

- (1) The Planning Assessment Commission has the following functions:
 - (a) any function delegated to the Commission under the planning legislation,
 - (b) if requested to do so:
 - (i) by the Minister or the Director-General - to advise the Minister or the Director-General on planning or development matters or the administration of the planning legislation, or any related matter, and
 - (ii) by the Minister or the Director-General - to review any (or any aspect or part of any) development or development-related proposal, and

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Clause 15 Planning Administration Bill 2013

Part 4 Planning Assessment Commission

- (iii) by the Minister - to hold a public hearing into any matter that is the subject of any such advice or review or the subject of any other function exercised by the Commission,

Note. Appeals to the Land and Environment Court do not lie against a decision of the Commission made after a public hearing - see Part 9 of the *Planning Act 2013*.

- (c) any function of a regional planning panel or an independent hearing and assessment panel in respect of a particular matter that is determined by the Minister,
 - (d) if a regional planning panel has not been appointed for any part of the State, any function that is conferred on any such panel under the planning control provisions of a local plan applicable to that part or that is otherwise conferred on any such panel under the planning legislation,
 - (e) if a subregional planning board has failed to comply with any direction of the Minister under the planning legislation in respect of a matter, any function of the board in respect of particular matters of that kind that is determined by the Minister,
 - (f) any other function conferred or imposed on it under the planning legislation or under any other legislation.
- (2) For the purposes of subsection (1) (c) and (e), the Planning Assessment Commission has the functions of the panel or board concerned in respect of the matter to the exclusion of the panel or board.
 - (3) For the purposes of subsection (1) (d), the Planning Assessment Commission has all the functions of the panel concerned.
 - (4) The Planning Assessment Commission cannot employ any staff.
Note. Staff to enable the Commission to exercise its functions may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service.
 - (5) The Planning Assessment Commission may:
 - (a) arrange, with the approval of the Director-General, for the use of the services of any staff (by secondment or otherwise) or facilities of a Division of the Government Service or a public authority, and
 - (b) with the approval of the Director-General, engage such consultants as it requires to exercise its functions.

15 Constitution of Commission for particular matters

- (1) For the purpose of carrying out any of its functions, the Planning Assessment Commission is to be constituted by 3 members.

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Clause 16

Planning Assessment Commission

Part 4

- (2) The Commission is to be constituted by more than 3 members or less than 3 members if directed to be so constituted by the Minister.
- (3) The members for the purpose of exercising a function of the Commission are, subject to any directions of the Minister, to be determined by the chairperson.
- (4) The Commission may, at any time, exercise by the same or different members, one or more of its functions.
- (5) For the purpose of exercising any of its functions, the Commission is to be constituted by specified members, or members with specified qualifications or expertise, if a direction to that effect is given by the Minister.

16 Provisions relating to Commission [cf ss 23C and 23E]

- (1) Schedules 2 and 5 contain provisions with respect to public hearings or reviews by, and to the members and procedures of, the Planning Assessment Commission.
- (2) The work of the Planning Assessment Commission is, subject to the planning legislation, to be allocated by the chairperson of the Commission.
- (3) The regulations may make provision for or with respect to the following:
 - (a) the procedures of the Planning Assessment Commission, including the procedures for public hearings or reviews relating to any or all, or a class, of its functions,
 - (b) without limiting paragraph (a), providing that parties are not to be represented (whether by an Australian legal practitioner or any other person) or are only to be represented in specified circumstances,
 - (c) the conferral on the Commission of power to require a person to give evidence or produce documents for the purposes of a public hearing or review or the exercise of any of its other functions,
 - (d) reports of the Commission's findings and recommendations,
 - (e) the making of findings and recommendations of the Commission public,
 - (f) the provision of information by the Commission.

17 Delegation by Planning Assessment Commission [cf s 23 (1A)]

The Planning Assessment Commission may, with the approval of the Minister, delegate any function of the Commission under the planning

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Clause 17 Planning Administration Bill 2013

Part 4 Planning Assessment Commission

legislation or under any other legislation (other than this power of delegation) to any person or body specified in the Minister's approval.

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Planning Administration Bill 2013

Clause 18

Regional planning panels

Part 5

Part 5 Regional planning panels

18 Regional planning panels [cf s 23G]

- (1) The regional planning panels specified in Schedule 3 are constituted for the particular parts of the State so specified in relation to each such panel.

Note. Regional planning panels are to be included in Schedule 3 by Ministerial order.

- (2) A regional planning panel is not subject to the direction or control of the Minister (except in relation to the procedure of the panel and any directions under section 10.1 of the *Planning Act 2013*).
- (3) Legal proceedings by or against a regional planning panel are to be taken in the name of the panel and not by or against the members of the panel.
- (4) A regional planning panel is a NSW Government agency.
- (5) The Minister may, by order published on the NSW legislation website, amend Schedule 3 for any of the following purposes:
- (a) to constitute a regional planning panel and to specify the part of the State for which it is constituted,
 - (b) to abolish a regional planning panel,
 - (c) to change the name of a regional planning panel or to change the part of the State for which it is constituted,
 - (d) to make savings and transitional provisions consequent on any of the above.

19 Members of panels

- (1) A regional planning panel is to consist of the following 3 members:
- (a) 2 members appointed by the Minister (the *State members*),
 - (b) 1 nominee of an applicable council (the *council nominee*) who is a councillor, a member of council staff or other person nominated by the council.
- (2) Persons appointed or nominated as members of a regional planning panel are to be persons who have expertise in planning or related fields (such as architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, tourism or government and public administration).
- (3) One of the State members is to be appointed by the Minister as chairperson of the regional planning panel. The Minister is required to obtain the concurrence of the Local Government and Shires Association of New South Wales to the appointment unless:

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Clause 20 Planning Administration Bill 2013

Part 5 Regional planning panels

- (a) the Association fails to notify its concurrence or refusal to concur within 21 days of being requested to do so by the Minister, or
 - (b) the Association has refused to concur in respect of 2 different persons proposed by the Minister for appointment.
- (4) In appointing a State member, the Minister is to have regard to the need to have a range of expertise represented among the panel's members.
- (5) Each applicable council is to nominate 1 person as a council nominee for the purposes of the regional planning panel. If an applicable council fails to nominate a council nominee, a regional planning panel is not required to include a council nominee for the purposes of exercising its functions in relation to the area of the council concerned.
- (6) For the purposes of exercising the functions of a regional planning panel in relation to a matter, the council nominee appointed to the panel is to be nominated by the applicable council for the land to which the matter relates.
- (7) Subject to this Act, a council nominee remains eligible to participate as a member of the regional planning panel for such period (not exceeding 3 years) as is specified in the nominee's instrument of nomination, but is eligible (if otherwise qualified) for re-nomination.
- (8) In this section:
applicable council means the council of an area that is situated (wholly or partly) in a part of the State for which a regional planning panel is appointed.

20 Functions of panels [cf s 23G]

A regional planning panel has the following functions:

- (a) the specified functions of a consent authority under Part 4 of the *Planning Act 2013* for regionally significant development,
- (b) any functions under the planning legislation of a council within its area that are conferred on it under Part 1 of Schedule 10 to the *Planning Act 2013*,
- (c) to advise the Minister or the Director-General as to planning or development matters relating to the part of the State for which it is appointed (or any related matters) if requested to do so by the Minister or the Director-General,
- (d) any other function conferred or imposed on it under the planning legislation or any other legislation.

Note. Under clause 10.2 of Schedule 10, the panel (or the Planning Assessment Commission if acting in place of the panel) is, in the exercise of a function referred to in paragraph (b), taken to be the council and is to exercise the function to the exclusion of the council.

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Planning Administration Bill 2013

Clause 21

Regional planning panels

Part 5

21 Provisions relating to panels [cf ss 23H, 118AD, 118AE]

- (1) Schedule 5 contains provisions with respect to the members and procedure of regional planning panels.
- (2) The regulations may make provision for or with respect to the following:
 - (a) the functions conferred by the planning legislation on a regional planning panel including its procedures in exercising its functions,
 - (b) the provision of information and reports by regional planning panels,
 - (c) without limiting paragraph (a), providing that parties to matters being determined by a regional planning panel are not to be represented (whether by an Australian legal practitioner or any other person) or are only to be represented in specified circumstances.
- (3) The Director-General is, in the annual report of the Department, to report on the activities of regional planning panels during the reporting year under Part 1 of Schedule 10 to the *Planning Act 2013*.

22 Delegation by panels [cf s 23 (1B)]

A regional planning panel may, with the approval of the Minister, delegate any function of the panel under the planning legislation or under any other legislation (other than this power of delegation) to a council, or to the general manager or other staff of the council, for any area or part of any area for which the panel is appointed.

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Clause 23 Planning Administration Bill 2013

Part 6 Subregional planning boards

Part 6 Subregional planning boards

23 Subregional planning boards

- (1) There are constituted by this Act the subregional planning boards specified in Schedule 4.
- (2) A subregional planning board is a body corporate with the corporate name specified in Schedule 4.
- (3) A subregional planning board is a NSW Government agency.
- (4) A subregional planning board is not, in the exercise of its functions, subject to the direction or control of the Minister (except in relation to the procedure of the board and any directions under section 10.1 of the *Planning Act 2013*).
- (5) The Minister may, by order published on the NSW legislation website, amend Schedule 4 for any of the following purposes:
 - (a) to establish a subregional planning board,
 - (b) to abolish a subregional planning board,
 - (c) to change the name of a subregional planning board,
 - (d) to make savings and transitional provisions consequent on any of the above.

24 Members of boards

- (1) A subregional planning board is to consist of the following members:
 - (a) not more than 4 members appointed by the Minister (the *State members*),
 - (b) a separate council member appointed by each council whose area is wholly or partly within the area for which the board is constituted,
 - (c) another member appointed by the Minister as chairperson.
- (2) Persons appointed as members of a subregional planning board are to be persons who together have relevant skills and knowledge in planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, tourism or government and public administration.
- (3) The Minister is required to obtain the concurrence of the Local Government and Shires Association of New South Wales to the appointment of the chairperson unless:
 - (a) the Association fails to notify its concurrence or refusal to concur within 21 days of being requested to do so by the Minister, or

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Planning Administration Bill 2013

Clause 25

Subregional planning boards

Part 6

- (b) the Association has refused to concur in 2 different persons proposed by the Minister for appointment.

25 Functions of boards

A subregional planning board has the functions conferred or imposed on it under the planning legislation or any other legislation.

Note. Part 3 of the *Planning Act 2013* provides that a function of a board is to prepare subregional delivery plans.

26 Provisions relating to boards [cf s 118AF]

- (1) Schedule 5 contains provisions with respect to the members and procedure of subregional planning boards.
- (2) The regulations may make provision for or with respect to the functions, members and procedure of subregional planning boards.

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Clause 27 Planning Administration Bill 2013

Part 7 Provisions relating to councils

Part 7 Provisions relating to councils

27 Council independent hearing and assessment panels [cf ss 23I and 23J and cl 268X of 2000 Reg]

- (1) A council may constitute a panel of experts to assess any aspect of a development application or any planning matter referred to the panel by the council (other than a matter subject to a determination or review by a regional planning panel).
- (2) A council must constitute a panel of experts to assess any aspect of a development application or any planning matter if an assessment by a panel is required by the planning control provisions of a local plan.
- (3) The members of a panel of experts are to consist of persons having 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.
- (4) For the purposes of an assessment, a panel may receive or hear submissions from interested persons and must submit a report to the council within the time required by the council.
- (5) A panel is to exercise its functions in accordance with the planning legislation and any arrangements approved by the Minister. However, a panel is not subject to the direction or control of the Minister on the findings or recommendations in its report.
- (6) The council is to provide staff and facilities for the purpose of enabling a panel to exercise its functions.
- (7) A member of a panel 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) A council must provide an annual report to the Director-General as to the following:
 - (a) the number of independent hearing and assessment panels constituted by the council in the preceding year,
 - (b) the matters referred to the panels in the preceding year,
 - (c) the persons appointed to the panels,
 - (d) decisions made by the council relating to matters referred to the panels, including the reasons for any decision not in accordance with an assessment by a panel,
 - (e) any other matters relating to the exercise of functions by panels as directed by the Director-General.

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Planning Administration Bill 2013

Clause 28

Provisions relating to councils

Part 7

- (9) The regulations may make provision for or with respect to the following:
- (a) the procedures of independent hearing and assessment panels in exercising functions,
 - (b) without limiting paragraph (a), providing that parties are not to be represented (whether by an Australian legal practitioner or any other person) or are only to be represented in specified circumstances,
 - (c) the provision of information or reports by councils with respect to the exercise of functions by independent hearing and assessment panels and any actions taken or not taken by councils in response to panel assessments.
- (10) This section does not limit the functions that may be exercised by an independent hearing and assessment panel under the planning legislation.

28 Obligation to consult with council about certain decisions [cf s 23M]

The Planning Assessment Commission or a regional planning panel must not exercise a function that will result in the making of a decision that will have, or that might reasonably be expected to have, a significantly adverse financial impact on a council until after it has consulted with the council.

29 Obligations of councils to assist Commission and regional panels [cf s 23N]

- (1) The Planning Assessment Commission or a regional planning panel is entitled, on request made to the general manager of a council:
- (a) to have access to, and to make copies of and take extracts from, records of the council relevant to the exercise of the Commission's or panel's functions, and
 - (b) to the use of the staff and facilities of the council in order to exercise the Commission's or panel's functions, and
 - (c) to any other assistance or action by the council for the purposes of exercising the Commission's or panel's functions.
- (2) The regulations may make provision with respect to assistance and action under this section.

30 Section 381 of Local Government Act 1993 excluded

Section 381 of the *Local Government Act 1993* does not apply to a delegation under this Act to the general manager or other staff of a council.

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Clause 31 Planning Administration Bill 2013

Part 8 Investigative powers

Part 8 Investigative powers

Division 1 Preliminary

31 Definitions [cf s 122H]

In this Part:

authorised fire officer means a fire officer who may issue a fire safety order under Division 10.2 of Part 10 of the *Planning Act 2013*.

investigation authority means:

- (a) a council, in relation to an investigation officer appointed by the council, or
- (b) the Director-General, in relation to any other investigation officer.

investigation officer means a person appointed as an investigation officer under this Part by the Director-General (a **Departmental investigation officer**) or by a council (a **council investigation officer**).

investigation purpose means a purpose for which a power may be exercised under this Part.

occupier of premises means the person who has the management or control of the premises.

records includes plans, specifications, maps, reports, books and other documents (whether in writing, in electronic form or otherwise).

32 Appointment of investigation officers [cf s 122I]

- (1) The Director-General or a council may appoint any person (including a class of persons) as an investigation officer for the purposes of this Part.
Note. Because of the definition of “investigation officer”, a person appointed by the Director-General becomes a “Departmental investigation officer” and a person appointed by the council becomes a “council investigation officer”.
- (2) A person’s appointment as an investigation officer may be made generally, or made subject to conditions or restrictions or only for limited purposes.
- (3) A person’s appointment as an investigation officer is to be made by written instrument (in the case of an individual appointment) or by notice published on the NSW planning website or in the Gazette (in the case of the appointment of a class of persons).
- (4) Every investigation officer is to be provided with an identification card as an investigation officer by the investigation authority.

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Clause 33

Investigative powers

Part 8

33 Purposes for which powers under Part may be exercised [cf s 122G]

- (1) A Departmental investigation officer may exercise powers under this Part for any of the following purposes:
 - (a) for enabling the Minister or Director-General to exercise their functions under the planning legislation,
 - (b) for determining whether there has been compliance with or a contravention of the planning legislation, including any plan, planning approval or any other document or requirement issued or made under the planning legislation,
 - (c) for obtaining information or records for purposes connected with the administration of the planning legislation,
 - (d) generally for administering the planning legislation.
- (2) A council investigation officer may exercise powers under this Part for any of the following purposes:
 - (a) for enabling a council to exercise its functions under the planning legislation,
 - (b) at the request of the Commissioner of Fire and Rescue NSW, for determining whether or not adequate provision for fire safety has been made in or in connection with a building.
- (3) Nothing in this Part affects any function under any other part of this Act or under any other Act.

Division 2 Powers of entry and search

34 Powers of investigation officers to enter premises [cf ss 118J, 122J]

- (1) An investigation officer may enter:
 - (a) any premises at which the officer reasonably suspects that any industrial, agricultural or commercial activities are being carried out—at any time during which those activities are being carried out there, and
 - (b) any other premises—at any reasonable time.
- (2) An investigation officer may enter a part of premises used for residential purposes only:
 - (a) with the consent of the occupier, or
 - (b) under the authority of a search warrant issued under this Part, or
 - (c) if it is necessary to do so to inspect work being carried out under a planning approval or premises for which a building information certificate is being sought.

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- (3) An investigation officer may enter any premises under the authority of a search warrant issued under this Part.
- (4) The power to enter premises authorises entry by foot or by means of a motor vehicle or other vehicle, or in any other manner.
- (5) Reasonable force may be used to enter premises under this Part.
- (6) An investigation officer may enter premises under this Part with the aid of such investigation officers, police officers or other persons as the investigation officer considers necessary.

35 Notice of entry [cf s 118C]

- (1) The investigation officer or the investigation authority must give the owner or occupier of premises written notice of the intention to enter the premises before a person authorised to enter premises under this Part does so.
- (2) The notice must specify the day on which the person intends to enter the premises and must be given before that day.
- (3) Notice is not required to be given:
 - (a) if entry to the premises is made with the consent of the owner or occupier of the premises, or
 - (b) if entry to the premises is required because of the existence or reasonable likelihood of a serious risk to health or safety, or
 - (c) if entry is required urgently and the case is one in which the investigation authority has authorised in writing (either generally or in the particular case) entry without notice.

36 Powers of investigation officers to do things at premises [cf ss 118B, 122L]

- (1) An investigation officer who lawfully enters premises may do anything that the officer thinks is necessary to be done for an investigation purpose, including (but not limited to) the following things:
 - (a) examine and inspect any works, plant or other article,
 - (b) take and remove samples,
 - (c) make such examinations, inquiries and tests as the officer thinks necessary,
 - (d) take such photographs, films, audio, video and other recordings as the officer thinks necessary,
 - (e) for the purpose of an inspection:
 - (i) open any ground and remove any flooring and take any measures that may be necessary to ascertain the character

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- and condition of the premises and of any pipe, sewer, drain, wire or fitting, and
- (ii) require the opening, cutting into or pulling down of any work if the officer has reason to believe or suspect that anything on the premises has been done in contravention of the planning legislation,
 - (f) take measurements, make surveys and take levels and, for those purposes, dig trenches, break up the soil and set up any posts, stakes or marks,
 - (g) require records to be produced for inspection,
 - (h) examine and inspect any records,
 - (i) copy any records,
 - (j) seize anything that the officer has reasonable grounds for believing is connected with an offence against the planning legislation,
 - (k) do any other thing the officer is empowered to do under this Part.
- (2) The power to seize anything connected with an offence includes a power to seize:
- (a) a thing with respect to which the offence has been committed, and
 - (b) a thing that will afford evidence of the commission of the offence, and
 - (c) a thing that was used for the purpose of committing the offence.

A reference to any such offence includes a reference to an offence that there are reasonable grounds for believing has been committed.

37 Search warrants [cf ss 118K, 122M]

- (1) An investigation officer may apply to an issuing officer for the issue of a search warrant if the investigation officer believes on reasonable grounds that the *Planning Act 2013*, this Act, the regulations under the *Planning Act 2013* or this Act, a local plan or a planning approval is being or has been contravened at any premises.
- (2) An issuing officer to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an investigation officer named in the warrant:
 - (a) to enter the premises, and
 - (b) to exercise any function of an investigation officer under this Part.

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(3) Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies to a search warrant issued under this section.

(4) In this section:
issuing officer means an authorised officer within the meaning of the *Law Enforcement (Powers and Responsibilities) Act 2002*.

38 Care to be taken [cf ss 118F, 122O]

(1) An investigation officer must do as little damage as possible in the exercise of a power of entering or searching premises under this Part. The investigation authority must provide, if necessary, other means of access in place of any taken away or interrupted by an investigation officer.

(2) As far as practicable, entry on to fenced land is to be made through an existing opening in the enclosing fence. If entry by that means is not practicable, a new opening may be made in the enclosing fence, but the fence is to be fully restored when the need for entry ceases.

39 Notification of use of force or urgent entry [cf s 118E]

(1) An investigation officer who:
(a) uses force for the purpose of gaining entry to premises, or
(b) enters premises in an emergency without giving written notice to the owner or occupier,
must promptly advise the investigation authority.

(2) The investigation authority must give notice of the entry to such persons or authorities as appear to the investigation authority to be appropriate in the circumstances.

Division 3 Powers to obtain information

40 Requirement to provide information and records [cf ss 122Q, 122R]

(1) An investigation officer may, by notice in writing given to a person, require the person to furnish to the officer such information or records (or both) as the notice requires in connection with an investigation purpose.

(2) The notice must specify the manner in which information or records are required to be furnished and a reasonable time by which the information or records are required to be furnished.

(3) The notice may only require a person to furnish existing records that are in the person's possession or that are within the person's power to obtain lawfully.

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- (4) The person to whom any record is furnished under this section may take copies of it.
- (5) If any record required to be furnished is in electronic, mechanical or other form, the notice requires the record to be furnished in written form, unless the notice otherwise provides.
- (6) An investigation officer may exercise a power under this section whether or not a power of entry is being or has been exercised.

41 Power of investigation officers to require answers and record evidence

[cf ss 118BA, 122S]

- (1) An investigation officer may require a person to answer questions in relation to a matter connected with an investigation purpose if the officer suspects on reasonable grounds:
 - (a) that it is necessary to require information about the matter for that purpose, and
 - (b) that the person has knowledge of the matter.
- (2) The investigation authority may require a corporation to nominate a director or officer of the corporation who is authorised to represent the corporation for the purposes of answering questions under this section.
- (3) An investigation officer may, by notice in writing, require a person to attend at a specified place and time to answer questions under this section if attendance at that place is reasonably required in order that the questions can be properly put and answered.
- (4) The place and time at which a person may be required to attend is to be:
 - (a) a place or time nominated by the person, or
 - (b) if the place and time nominated is not reasonable in the circumstances or a place and time is not nominated by the person, a place and time nominated by the investigation officer that is reasonable in the circumstances.
- (5) An investigation officer may exercise a power under this section whether or not a power of entry is being or has been exercised.

42 Recording of evidence [cf ss 118BA, 122S]

- (1) An investigation officer may cause any questions and answers to questions given under this Division to be recorded if the officer has informed the person who is to be questioned that the record is to be made.
- (2) A record may be made using sound recording apparatus or audio visual apparatus, or any other method determined by the investigation officer.

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- (3) A copy of any such record must be provided by the investigation officer to the person who is questioned as soon as practicable after it is made.
- (4) A record may be made under this section despite the provisions of any other law.

Division 4 Miscellaneous provisions applying to exercise of powers

43 Offences [cf ss 118N, 122T]

- (1) A person must not, without reasonable excuse, fail to comply with a requirement made of the person by an investigation officer in accordance with this Part.
- (2) A person must not furnish any information or do any other thing in purported compliance with a requirement made under this Part that the person knows is false or misleading in a material respect.
- (3) A person must not intentionally delay or obstruct an investigation officer in the exercise of the officer's powers under this Part.
Maximum penalty: Tier 3.

44 Identification card to be produced [cf s 122I (4)]

An investigation officer who is exercising a function under this Part must produce the officer's identification card, if requested to do so by a person affected by the exercise of the function.

45 Assistance for investigation officers [cf s 122N]

The investigation authority may, by notice in writing given to the owner or occupier of premises, require the owner or occupier to provide reasonable assistance and facilities to an investigation officer in the exercise of the officer's powers under this Part. The notice is to specify the assistance and facilities to be provided and the time and manner in which they are to be provided.

46 Compensation [cf ss 118H, 122O]

The State must compensate all interested parties for any damage caused by a Departmental investigation officer (and a council must compensate all interested parties for any damage caused by a council investigation officer) in exercising a power of entering premises but not any damage caused by the exercise of any other power, unless the occupier obstructed or hindered the officer in the exercise of the power of entry.

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47 Recovery of cost of entry and inspection [cf s 118G]

If, as a result of an inspection of premises under this Part by an investigation officer, the investigation authority requires any work to be carried out on or in the premises, the investigation authority may recover the reasonable costs of the entry and inspection from the owner or occupier of the premises.

48 Notices [cf s 122V]

- (1) More than one notice under a provision of this Part may be given to the same person.
- (2) A notice given under this Part may be revoked or varied by a subsequent notice or notices (including by extending the time for compliance with the notice).
- (3) A notice may be given under this Part to a person in respect of a matter or thing even though the person is outside the State, or the matter or thing occurs or is located outside the State, so long as the matter or thing affects the environment of this State.

49 Provisions relating to requirements to furnish records or information or answer questions [cf s 122U]

(1) Warning to be given on each occasion

A person is not guilty of an offence of failing to comply with a requirement under this Part to furnish records or information or to answer a question unless the person was warned on that occasion that a failure to comply is an offence.

(2) Self-incrimination not an excuse

A person is not excused from a requirement under this Part to furnish records or information or to answer a question on the ground that the record, information or answer might incriminate the person or make the person liable to a penalty.

(3) Information or answer not admissible if objection made

However, any information furnished or answer given by a natural person in compliance with a requirement under this Part is not admissible in evidence against the person in criminal proceedings (except proceedings for an offence under this Part) if:

- (a) the person objected at the time to doing so on the ground that it might incriminate the person, or
- (b) the person was not warned on that occasion that the person may object to furnishing the information or giving the answer on the ground that it might incriminate the person.

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(4) **Records admissible**

Any record furnished by a person in compliance with a requirement under this Part is not inadmissible in evidence against the person in criminal proceedings on the ground that the record might incriminate the person.

(5) **Further information**

Further information obtained as a result of a record or information furnished or of an answer given in compliance with a requirement under this Part is not inadmissible on the ground:

- (a) that the record or information had to be furnished or the answer had to be given, or
- (b) that the record or information furnished or answer given might incriminate the person.

50 Fire brigades inspection powers [cf s 118L]

- (1) An authorised fire officer may exercise the powers of an investigation officer under this Part for the purpose of inspecting a building to determine whether or not:
 - (a) adequate provision for fire safety has been made in or in connection with the building, or
 - (b) the fire safety provisions prescribed for the purposes of this section by the regulations have been complied with.
- (2) An authorised fire officer cannot inspect premises under this section (other than places of shared accommodation) for the purposes of determining whether or not adequate provision for fire safety has been made except:
 - (a) when requested to do so by the council of the area in which the building is located, or
 - (b) when requested to do so by a person who holds himself or herself out as the owner, lessee or occupier of the building, or
 - (c) when the Commissioner of Fire and Rescue NSW has received a complaint in writing that adequate provision for fire safety has not been made concerning the building.
- (3) A council must, at the request of the Commissioner of Fire and Rescue NSW, make available a council investigation officer for the purposes of an inspection under this section, and the officer concerned is to be present during the inspection.
- (4) The Commissioner of Fire and Rescue NSW must send a report of any inspection carried out under this section to the council concerned.

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- (5) This Part applies (subject to the regulations) to an authorised fire officer in the same way that it applies to a council investigation officer.
- (6) A council must, at the written request of the Commissioner of Fire and Rescue NSW, cause any building specified in the request to be inspected for the purpose of determining whether or not adequate provision for fire safety has been made in or in connection with the building. As soon as practicable after such an inspection has been carried out, the council must send a report of the inspection to the Commissioner.

51 Building or subdivision certifiers [cf s 118A (2B) and (2C)]

- (1) The regulations may confer on a building certifier or subdivision certifier specified powers of a council investigation officer under this Part for the purpose of exercising functions under the planning legislation as a building or subdivision certifier.
- (2) This Act applies (subject to the regulations) to any such certifier in the same way that it applies to a council investigation officer.

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Clause 52 Planning Administration Bill 2013

Part 9 Monitoring and environmental auditing of approved development

Part 9 Monitoring and environmental auditing of approved development

52 Application of Part [cf s 122A]

- (1) This Part applies to the carrying out of State significant development, or State infrastructure development, that has planning approval under the planning legislation.
- (2) This Part does not affect the other provisions of the planning legislation.

53 Nature of monitoring and environmental audits [cf s 122B]

- (1) For the purposes of this Part, *monitoring* of development is the monitoring of the carrying out of the development to provide data on compliance with the approval of the development or on the development's environmental impact.
- (2) For the purposes of this Part, an *environmental audit* of development is a periodic or particular documented evaluation of approved development to provide information to the proponent of the development and to the persons administering the planning legislation on compliance with the approval of the development or on the development's environmental management or impact.
- (3) A reference in this section to compliance with the approval of development includes a reference to compliance with:
 - (a) the conditions to which the approval of the development is subject, and
 - (b) the requirements of the planning legislation and of relevant provisions of any other Act referred to in Division 6.1 of Part 6 of the *Planning Act 2013*.

54 Minister may require monitoring or environmental audits by imposition of conditions on approved development [cf s 122C]

- (1) The Minister may, by the imposition of conditions on the approval of development, require monitoring or an environmental audit or audits to be undertaken to the satisfaction of the Minister by the proponent of the development.
- (2) A condition requiring monitoring or an environmental audit may be imposed at the time the approval of the development is given or at any other time by notice in writing to the proponent of the development.
- (3) Any such condition imposed by notice may be varied or revoked by a similar notice.

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Clause 55

Monitoring and environmental auditing of approved development

Part 9

55 Provisions relating to conditions for monitoring and environmental audits [cf s 122D]

- (1) A condition requiring monitoring may require:
 - (a) the provision and maintenance of appropriate measuring and recording devices for the purposes of the monitoring, and
 - (b) the analysis, reporting and retention of monitoring data, and
 - (c) certification of the monitoring data (including the extent to which the terms and conditions of any approval have or have not been complied with).
- (2) A condition requiring an environmental audit must specify the purpose of the audit. Such a condition may require:
 - (a) the conduct of the audit by the proponent or by an independent person or body approved by the Minister or the Director-General (either periodically or on particular occasions), and
 - (b) preparation of written documentation during the course of the audit, and
 - (c) preparation of an audit report, and
 - (d) certification of the accuracy and completeness of the audit report, and
 - (e) production to the Minister of the audit report.

56 Offences [cf s 122E]

(1) False or misleading information in monitoring or audit report

A person must not include information in (or provide information for inclusion in):

- (a) a report of monitoring data, or
- (b) an audit report produced to the Minister in connection with an environmental audit,

if the person knows that the information is false or misleading in a material respect.

(2) Information not included in monitoring or audit report

The proponent of approved development must not fail to include information in (or provide information for inclusion in):

- (a) a report of monitoring data, or
- (b) an audit report produced to the Minister in connection with an environmental audit,

if the proponent knows that the information is materially relevant to the monitoring or audit.

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Clause 57 Planning Administration Bill 2013

Part 9 Monitoring and environmental auditing of approved development

(3) **Retention of monitoring data or audit documentation**

The proponent of approved development must:

- (a) retain any monitoring data in accordance with the relevant condition of the approval for at least 5 years after it was collected, and
- (b) retain any documentation required to be prepared by the proponent in connection with an environmental audit for a period of at least 5 years after the audit report concerned was produced to the Minister, and
- (c) produce during that period any such documentation on request to an investigation officer under Part 8 who is a Departmental investigation officer.

Maximum penalty: Tier 3.

57 Self-incriminatory information and use of information [cf s 122F]

- (1) Information must be supplied by a person in connection with a report of monitoring or an environmental audit, and this Part applies to any such information that is supplied, whether or not the information might incriminate the person.
- (2) Any information in monitoring data or in an audit report or other documentation supplied to the Minister in connection with an environmental audit may be taken into consideration by the Minister and used for the purposes of the planning legislation.
- (3) Without limiting the above, any such information:
 - (a) is admissible in evidence in any prosecution of the proponent of approved development for any offence (whether under the planning legislation or otherwise), and
 - (b) may be disclosed by the Minister by publishing it in such manner as the Minister considers appropriate.

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Clause 58

Miscellaneous

Part 10

Part 10 Miscellaneous

58 Disclosure and misuse of information [cf s 148]

- (1) A person must not disclose any information obtained in connection with the administration of the planning legislation 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 of the planning legislation, or
 - (c) for the purposes of any legal proceedings arising out of the planning legislation or of any report of any such proceedings, or
 - (d) in accordance with a requirement imposed under the *Ombudsman Act 1974*, or
 - (e) with other lawful excuse.
- (2) A person acting in the administration of the planning legislation must not use, either directly or indirectly, information acquired by the person in that capacity, being information that is not generally known but if generally known might reasonably be expected to affect materially the market value or price of any land, for the purpose of gaining either directly or indirectly an advantage for himself or herself, or a person with whom he or she is associated.
- (3) A person acting in the administration of the planning legislation, and being in a position to do so, must not, for the purpose of gaining either directly or indirectly an advantage for himself or herself, or a person with whom he or she is associated, influence:
 - (a) the making of any provision of a strategic plan or infrastructure plan or of a proposal for any such provision, or
 - (b) the determination of an application for planning approval, or
 - (c) a decision concerning a complying development certificate, or
 - (d) the giving of a development control order.

- (4) In this section, a person is associated with another person if the person is the spouse, de facto partner, sibling, parent or child of the other person.

Maximum penalty: Tier 3 or imprisonment for a term not exceeding 6 months, or both.

Note. "De facto partner" is defined in section 21C of the *Interpretation Act 1987*.

59 Exclusion of personal liability [cf ss 23 (9) and 158]

A matter or thing done, or omitted to be done, by:

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Part 10 Miscellaneous

- (a) the Minister, or
- (b) the Director-General, or
- (c) any member of staff of the Department, or
- (d) a member of a committee or panel established by the Minister or Director-General under Part 2, or
- (e) a member of the Planning Assessment Commission, or
- (f) a member of a regional planning panel, or
- (g) a member of subregional planning board, or
- (h) any individual acting as an investigation officer under Part 8, or
- (i) any individual acting under the direction of a person or body referred to above, or
- (j) any individual acting as the delegate of a person or body referred to above,

does not subject the Minister, the Director-General or any such member or individual so acting personally to any action, liability, claim or demand if the matter or thing was done, or omitted to be done, in good faith for the purpose of the administration of the planning legislation.

60 Delegation by public authorities other than councils and subregional planning boards [cf s 153A]

- (1) In this section, *public authority* does not include a council or a subregional planning board.

Note. See sections 377-381 of the *Local Government Act 1993* in relation to the delegation of functions by councils.

- (2) A public authority may delegate any function of the public authority under the planning legislation (other than this power of delegation) to a member of staff of the public authority. If the public authority is a chief executive officer, the function may be delegated to any member of staff of the public authority of which he or she is the chief executive officer.
- (3) A member of staff of a public authority may delegate any function of the member of staff under the planning legislation (other than this power of delegation) to any other member of staff of the public authority. However, if the function is a delegated function, the function cannot be subdelegated unless subdelegation is authorised by the terms of the original delegation.
- (4) A power conferred by this section is in addition to any other power of delegation of the public authority or member of staff or any power of a person to exercise functions on behalf of the public authority.

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Clause 61

Miscellaneous

Part 10

61 Publication of instruments of delegation

- (1) Any instrument of delegation under this Act by the Minister, the Planning Ministerial Corporation, the Director-General, the Planning Assessment Commission or a regional planning panel is to be published on the NSW planning website.
- (2) Failure to comply with this section does not affect the validity of any such delegation.

62 Regulations

- (1) 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.
- (2) The regulations may create offences punishable by a penalty not exceeding \$11,000.
- (3) Regulations that may be made in connection with a particular Part of this Act may be made separately or by amending a Schedule to this Act that contains provisions relating to that Part.
- (4) A regulation may apply, adopt or incorporate any publication as in force from time to time.

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Schedule 1 Provisions relating to Planning Ministerial Corporation

Schedule 1 Provisions relating to Planning Ministerial Corporation

Part 1 Property provisions

1.1 General land functions of Corporation [cf s 11]

- (1) For the purposes of the planning legislation, the Planning Ministerial Corporation may, in such manner and subject to such terms and conditions as it thinks fit, sell, lease, exchange or otherwise dispose of or deal with land vested in the Corporation and grant easements or rights-of-way over that land or any part of it.
- (2) Without affecting the generality of subclause (1), the Planning Ministerial Corporation may, in any contract for the sale of land vested in it, include conditions for or with respect to:
 - (a) the erection of any building on that land by the purchaser within a specified period, or
 - (b) conferring on the Corporation an option or right to repurchase that land if the purchaser has failed to comply with a condition referred to in paragraph (a), or
 - (c) conferring on the Corporation an option or right to repurchase that land if the purchaser wishes to sell or otherwise dispose of that land before the expiration of a specified period or requiring the purchaser to pay to the Corporation a sum determined in a specified manner where the Corporation does not exercise that option or right, or
 - (d) the determination of the repurchase price payable by the Corporation pursuant to a condition referred to in paragraph (b) or (c).
- (3) A condition included in a contract of sale pursuant to subclause (2) does not merge in the transfer of title to the land, the subject of the contract of sale, on completion of the sale.
- (4) In addition to other functions conferred or imposed on the Planning Ministerial Corporation under the planning legislation or under any other legislation, the Corporation may, for the purposes of the planning legislation:
 - (a) manage land vested in the Corporation, and
 - (b) cause surveys to be made and plans of surveys to be prepared in relation to land vested in the Corporation or in relation to any land proposed to be acquired by the Corporation, and

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Provisions relating to Planning Ministerial Corporation

Schedule 1

- (c) demolish, or cause to be demolished, any building on land vested in the Corporation of which it has exclusive possession, and
 - (d) provide, or arrange, on such terms and conditions as may be agreed upon for the location or relocation of utility services within or adjoining or in the vicinity of land vested in the Corporation, and
 - (e) subdivide and re-subdivide land and consolidate subdivided or re-subdivided land vested in the Corporation, and
 - (f) set out and construct roads on land vested in the Corporation or on land of which the Corporation has exclusive possession, or on any other land with the consent of the person in whom it is vested, and
 - (g) erect, alter, repair and renovate buildings on and make other improvements to or otherwise develop land vested in the Corporation or any other land, with the consent of a person in whom it is vested, and
 - (h) cause any work to be done on or in relation to any land vested in the Corporation or any other land, with the consent of the person in whom it is vested, for the purpose of rendering it fit to be used for any purpose for which it may be used under any local plan which applies to the land, and
 - (i) by notification published in the Gazette, dedicate any land vested in the Corporation as a reserve for public recreation or other public purposes and fence, plant and improve any such reserve.
- (5) In the exercise of any function under subclause (4) (f), consultations are to be held with Roads and Maritime Services, the relevant council and such other persons as the Minister determines.
- (6) In relation to any land (whether vested in the Planning Ministerial Corporation or not), the Corporation may exercise any function that is necessary or convenient to be exercised in, or for any purpose of, the application of any part of a Planning Growth Fund referred to in this Schedule.

1.2 Power of Corporation to acquire land etc [cf ss 9 and 10]

- (1) The Planning Ministerial Corporation may, for the purposes of the planning legislation or pursuant to any function conferred or imposed on the Minister or the Director-General by the planning control provisions of a local plan, acquire land by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.

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Schedule 1 Provisions relating to Planning Ministerial Corporation

- (2) Without limiting the generality of subclause (1), the Planning Ministerial Corporation may acquire in any manner authorised by that subclause:
 - (a) any land to which the planning control provisions of a local plan apply and which the Minister considers should be made available in the public interest for any purpose, or
 - (b) any land of which that proposed to be acquired under this Schedule forms part, or
 - (c) any land adjoining or in the vicinity of any land proposed to be acquired under this Schedule, or
 - (d) a leasehold or any other interest in land.
- (3) The Planning Ministerial Corporation may acquire, by gift inter vivos, devise or bequest, any property for the purposes of the planning legislation and may agree to the condition of any such gift, devise or bequest.
- (4) The rule of law against remoteness of vesting does not apply to any such condition to which the Planning Ministerial Corporation has agreed.
- (5) If the Planning Ministerial Corporation acquires property under subclause (3), neither an instrument that effects the acquisition nor any agreement pursuant to which the property is acquired is chargeable with duty under the *Duties Act 1997*.
- (6) For the purposes of the *Public Works Act 1912*, any acquisition of land under this clause is taken to be for an authorised work and the Planning Ministerial Corporation is, in relation to that authorised work, taken to be the Constructing Authority. Sections 34, 35, 36 and 37 of the *Public Works Act 1912* do not apply in respect of works constructed by the Planning Ministerial Corporation.

1.3 Notification of interests [cf s 12]

- (1) The Registrar-General must, at the request of the Planning Ministerial Corporation made in a manner approved by the Registrar-General and on payment of the fee prescribed under the *Real Property Act 1900*, make, in the Register kept under that Act, a recording appropriate to signify:
 - (a) that land specified in the request is held subject to a condition authorised under clause 1.1 (2), or
 - (b) that a recording made pursuant to paragraph (a) has ceased to have effect.
- (2) The Planning Ministerial Corporation is not to make a request pursuant to subclause (1) (a) except for the purpose of ensuring compliance with the conditions in the contract of sale under which the land was sold, but

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the Registrar-General is not to be concerned to inquire whether any such request has been made for that purpose.

- (3) Where a recording pursuant to subclause (1) (a) has been made in respect of any land, the Registrar-General must not register under the *Real Property Act 1900* a transfer of that land to or by a person other than the Planning Ministerial Corporation unless it would be so registrable if this Part had not been enacted and unless:
 - (a) a recording pursuant to subclause (1) (b) has been made in respect of the land, or
 - (b) the consent of the Corporation to the transfer has been endorsed thereon.
- (4) When a recording is made pursuant to subclause (1) in respect of any land, the Director-General must notify the council in whose area the land is situated of the recording.

Part 2 Financial provisions

1.4 Financial year of Corporation [cf s 144]

The financial year of the Planning Ministerial Corporation is the year commencing on 1 July.

1.5 Assessment of loan commitments [cf s 143]

- (1) The Planning Ministerial Corporation may, in respect of each year ending on 31 December, assess the amount required in any such year for the payment of interest on, or repayment of principal of, any loan raised by the Corporation upon the councils whose areas or parts of areas are included in the development area to which the purpose for which the loan was raised relates.
- (2) The regulations may make provision for or with respect to:
 - (a) the assessment referred to in subclause (1), and
 - (b) the notification of a council referred to in subclause (1) by the Corporation of a decision to make the assessment, and
 - (c) the provision by such a council of information necessary to determine the amount to be paid by the council in relation to the assessment, and
 - (d) the payment by such a council of the whole or any part of an amount assessed.
- (3) A council required to pay the whole or any part of an amount assessed under subclause (1) must make the payment from its consolidated fund.

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- (4) The Corporation may recover as a debt or liquidated demand in any court of competent jurisdiction any amount assessed upon a council and not paid on or before such day as may be prescribed in relation to the assessment.

1.6 Planning Growth Funds [cf s 128–130]

- (1) There is established in the Special Deposits Account, a Planning Growth Fund in respect of each development area under clause 1.8.
- (2) The Growth Fund in respect of each development area is to consist of:
- (a) all money borrowed for the purpose of the acquisition or development of land within the development area and for the purpose of repaying or renewing a loan obtained for that purpose and the proceeds of any levy or assessment made by the Planning Ministerial Corporation for the purpose of repaying money so borrowed or renewing such a loan, and
 - (b) the proceeds of the sale or lease by the Planning Ministerial Corporation of any land situated within the development area, and
 - (c) all money and land directed by or under the planning legislation to be allocated to the Growth Fund, and
 - (d) all money received as a result of the investment of the Growth Fund, and
 - (e) such other money as the Treasurer authorises to be paid into the Growth Fund.
- (3) All land vested in the Planning Ministerial Corporation and situated within a development area is to form part of the assets of the Growth Fund in respect of that development area.
- (4) The Growth Fund in respect of each development area may be applied to any of the following purposes:
- (a) the acquisition or development of any land within the development area,
 - (b) the payment of rates and charges due and payable by the Planning Ministerial Corporation in respect of land within the development area,
 - (c) transfers to any reserve for loan repayment in respect of money borrowed in respect of the development area,
 - (d) payment of principal, interest and expenses in respect of money borrowed in respect of the development area,
 - (e) any purpose authorised by or under the planning legislation for the application of the Growth Fund,

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- (f) the creation of assets and incurring and discharging liabilities not inconsistent with the purposes of the Growth Fund,
 - (g) payment of principal, interest and expenses in respect of money borrowed which is not chargeable to any fund other than the Growth Fund, or in respect of a loan or asset transferred from another fund,
 - (h) the investment of money for the creation of reserves for any purposes not inconsistent with the purposes of the Growth Fund,
 - (i) any costs incurred in the administration of the Growth Fund.
- (5) The Growth Fund may also be applied, with the approval of the Minister, to the development of land (whether vested in the Planning Ministerial Corporation or not) within the development area for the purpose of an improvement program, if:
- (a) the Minister has considered likely future applications of the Growth Fund for all the purposes in subclause (4), and
 - (b) in the opinion of the Minister, implementation of the improvement program will improve public amenity by:
 - (i) enhancing open space or the public domain, or
 - (ii) providing suitable infrastructure or facilities at a regional or local level.
- (6) The Growth Fund in respect of each development area may be applied to purposes that are necessary, incidental, subordinate or supplementary to any of the purposes specified in this clause.

1.7 Planning Trust Fund [cf s 128–131]

- (1) There is established in the Special Deposits Account, the Planning Trust Fund.
- (2) The Trust Fund is to consist of the following assets:
 - (a) all money and land held by the Planning Ministerial Corporation by way of deposit or in trust for any person,
 - (b) all money and land assigned, conveyed, bequeathed or devised to the Planning Ministerial Corporation in trust for the purpose of any function which the Planning Ministerial Corporation is under the planning legislation empowered to exercise,
 - (c) all money received as a result of the investment of the Trust Fund.
- (3) The Trust Fund is to be applied as follows:
 - (a) where the money or land is held by way of a deposit or in trust for any person, the money may be paid or the land may be assured to or on behalf of the person entitled thereto, but if the money has remained in the Trust Fund for 10 years, the Planning Ministerial

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Corporation may transfer it to such Planning Growth Fund as it may deem proper, subject to repaying it from that fund to any person entitled thereto,

- (b) except as otherwise provided in this clause, for the purposes of and according to the trusts upon which the money or land is held by the Planning Ministerial Corporation,
- (c) by investment in securities authorised under the *Trustee Act 1925* or for the purposes of and according to the trusts referred to in paragraph (b).

1.8 Development areas [cf ss 132, 135]

- (1) Development areas may be constituted in accordance with this clause.
- (2) The Director-General may, by notice published on the NSW planning website, notify a proposal to constitute as a development area any area specified in the notice.
- (3) Within 14 days after the publication of the notice, the Director-General is to notify the councils of the areas proposed to be included in the development area of the proposal and otherwise publicise the proposal.
- (4) Any person may, by notice in writing, lodge with the Director-General, within 3 months after the publication of the notice, representations in relation to the proposal.
- (5) Where representations have been so lodged, the Director-General is to refer the matter to the Minister who may either:
 - (a) confirm the proposal, or
 - (b) alter the proposal by excluding, from the proposed development area, any area other than an area or part in which the Planning Ministerial Corporation has acquired land pursuant to clause 1.2.
- (6) If the Minister has requested that a review be held by the Planning Assessment Commission with respect to the proposal, the Minister must not determine the application until after:
 - (a) the review has been held, and
 - (b) the Minister has considered the findings and recommendations of the Commission following the review.
- (7) If no representations are lodged under this clause, the proposal is taken to be confirmed immediately on the expiry of the period allowed for the lodgment of representations.
- (8) The areas specified in the proposal as confirmed or altered are, upon publication on the NSW planning website of a notice constituting them as a development area, to be constituted as a development area under the name specified in the notice.

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- (9) The Director-General may, by notice published on the NSW planning website, notify a proposal to alter a development area by including any land or by excluding any land or to abolish such a development area, and the provisions of this Part apply to the notice as they apply to a notice referred to in subclause (2).
- (10) Sections 40 and 41 of the *Interpretation Act 1987* apply to a notice constituting, altering or abolishing a development area in the same way they apply to a statutory rule.

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Schedule 2 Provisions relating to Planning Assessment Commission

Schedule 2 Provisions relating to Planning Assessment Commission

(Section 16)

2.1 Definitions

In this Schedule:

chairperson means the person appointed by the Minister as the chairperson of the Commission.

Commission means the Planning Assessment Commission.

review means a review by the Commission under the planning legislation, whether or not it includes a public hearing.

2.2 Attendance of witnesses and production of documents at public hearings (cl 268Q 2000 Reg)

- (1) The chairperson of the Commission may require a person:
 - (a) to attend a public hearing of the Commission to give evidence, or
 - (b) to produce to the Commission a document that is relevant to a public hearing conducted by the Commission,at a time, date and place specified in a notice given to the person.
- (2) A person must not, without reasonable excuse, fail to comply with a requirement to attend a public hearing, or to produce a document.
Maximum penalty: \$11,000.
- (3) The Commission may permit a person appearing as a witness before the Commission to give evidence by tendering a written statement.

2.3 Public hearings by Commission (cl 268R 2000 Reg)

- (1) The Commission must conduct a public hearing if (and only if):
 - (a) the Commission is requested to do so by the Minister under section 14 (1) (b) (iii), or
 - (b) the Minister has determined in a gateway determination that the Commission must conduct a public hearing into a planning proposal for planning control provisions of a local plan, or
 - (c) the subject-matter concerns a development under Part 4 or under Division 5.1 of Part 5 of the *Planning Act 2013* that is being reviewed by the Commission and, in the opinion of the Commission, may involve the need for an approval under the *Water Management Act 2000*.
- (2) The Commission must give reasonable notice of the public hearing:

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Provisions relating to Planning Assessment Commission

Schedule 2

- (a) by advertisement published in such newspapers as the Commission thinks fit, to the public, and
 - (b) by notice in writing to any public authorities that the Commission thinks are likely to have an interest in the subject-matter of the public hearing.
- (3) The notice of a public hearing must contain the following matters:
 - (a) the subject-matter of the public hearing,
 - (b) the time, date and place of the public hearing,
 - (c) a statement that submissions may be made to the Commission in relation to the subject-matter concerned not later than the date specified in the notice (being a date not less than 14 days after the notice is given),
 - (d) a statement of the effect that the public hearing will have on any appeal rights in relation to an application for development consent.
- (4) If the Commission is satisfied that it is desirable to do so in the public interest because of the confidential nature of any evidence or matter or for any other reason, the Commission may direct that part of any public hearing is to take place in private and give directions as to the persons who may be present.

2.4 Notice of reviews and recommendations relating to development applications (cl 268S 2000 Reg)

- (1) This clause applies to a review by the Commission of all or any of the environmental aspects of proposed development the subject of a development application or a part of any such proposed development.
- (2) The consent authority for the proposed development must cause to be given to each concurrence authority and approval body for that development:
 - (a) as soon as practicable after the Commission is requested to hold the review, notice of the fact that a review is to be held, and
 - (b) as soon as practicable after the findings and recommendations of the review have been made public, copies of those findings and recommendations and (in the case of development other than EIS assessed development) any comments made by the Minister on them.
- (3) At any time within 14 days after receiving a copy of the findings and recommendations arising from the review:
 - (a) a concurrence authority may vary any conditions that it may previously have imposed in relation to its concurrence to the development, and

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Schedule 2 Provisions relating to Planning Assessment Commission

- (b) an approval body may vary any general terms of approval that it may previously have given in relation to the development.

2.5 Special provisions relating to water approvals (cl 268T 2000 Reg)

- (1) The Commission must cause notice to be given to the Minister for Primary Industries if, before or at any time up to the conclusion of a review held by it into:
 - (a) the environmental aspects of any proposed development the subject of a development application, whether or not it is EIS assessed development, or
 - (b) the environmental aspects of any EIS assessed development, it is of the opinion that the development may involve the need for an approval under the *Water Management Act 2000*.
- (2) For the purposes of this clause, a review is concluded when the Commission provides its final report on the review to the Minister.
- (3) The Commission must also cause notice to be given to the applicant or proponent for the development advising that the application for an approval should be made promptly if it has not already been made.
- (4) The Commission must defer concluding its review for sufficient time to enable:
 - (a) the applicant or proponent to apply for an approval, and
 - (b) any objectors to object to the granting of an approval, under the *Water Management Act 2000*.
- (5) As soon as practicable after the applicant's or proponent's application for an approval is referred to it under section 94 of the *Water Management Act 2000*, the Commission must give notice of the review in accordance with this Schedule.
- (6) In addition to considering any submissions that are made to it in the course of its review, the Commission must consider:
 - (a) the application for an approval, and
 - (b) any objection to the granting of an approval that has been referred to it under section 94 of the *Water Management Act 2000*.
- (7) In any report prepared by it, the Commission must include findings and recommendations with respect to:
 - (a) the question of whether or not an approval should be granted, and
 - (b) the period, term, limitations and conditions of any such approval.
- (8) The Commission must cause a copy of any such report to be given to the Minister for Primary Industries.

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Provisions relating to Planning Assessment Commission

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2.6 Commission may restrict publication of evidence (cl 268U 2000 Reg)

- (1) If the Commission is satisfied that it is desirable to do so in the public interest because of the confidential nature of any evidence or matter or for any other reason, the Commission may direct that evidence given before the Commission or contained in documents lodged with the Commission not be published or may only be published subject to restrictions.
- (2) A person must not, without reasonable excuse, fail to comply with a direction given by the Commission under this clause.
Maximum penalty: \$11,000.

2.7 Reports by Commission (cl 268V 2000 Reg)

- (1) The Commission must provide a copy of its findings and recommendations on a review conducted by it (a *final report*) to the Minister, or such other person or body as the Minister may direct, and may provide a copy to such other persons as the Commission thinks fit.
- (2) A final report must contain a summary of any submissions received by it in relation to the subject-matter of the review.
- (3) The Commission must also provide a copy of a final report on a review relating wholly or partly to development the subject of a development application to:
 - (a) the consent authority, and
 - (b) any public authority whose concurrence is required to the development.
- (4) A final report is to be made publicly available on the NSW planning website within a reasonable time after it has been provided to the Minister.

2.8 Annual report by Commission (cl 268W 2000 Reg)

- (1) The Commission must provide to the Minister an annual report on its operations and reviews in the preceding year.
- (2) An annual report is to be made publicly available on the NSW planning website within a reasonable time after it has been provided to the Minister.

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Schedule 3 Constitution of regional planning panels

Schedule 3 Constitution of regional planning panels

(Section 18)

3.1 Constitution

The following are constituted as regional planning panels:

Drafting note. The panels and their respective regions to be inserted by Ministerial order.

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Constitution of subregional planning boards

Schedule 4

Schedule 4 Constitution of subregional planning boards

(Section 23)

4.1 Constitution

The following are constituted as subregional planning boards:

Drafting note. The boards and their respective subregions to be inserted by Ministerial order.

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Schedule 5 Provisions relating to planning bodies

Schedule 5 Provisions relating to planning bodies

(Sections 6, 21 and 26)

Part 1 Preliminary

5.1 Definitions

In this Schedule:

member means the chairperson or other member of a planning body.

planning body means any of the following:

- (a) the Planning Assessment Commission,
- (b) a regional planning panel,
- (c) a subregional planning board,
- (d) a committee or panel established by the Minister or Director-General under section 6 of this Act.

Part 2 Provisions relating to members

5.2 Terms of office of members

- (1) A member of a planning body holds office, subject to this Act and the regulations, for such period as is specified in the member's instrument of appointment:
 - (a) in the case of the Planning Assessment Commission - not exceeding 3 years, or
 - (b) in the case of a State member of a regional planning panel - not exceeding 3 years, or
 - (c) in the case of a subregional planning board - not exceeding 4 years.

Note. See Part 5 of this Act for the term of office of council nominees of regional planning panels.
- (2) That period may be determined by reference to the occurrence of a specified event or the completion of the exercise of particular functions of the planning body.
- (3) A member is eligible (if otherwise qualified) for re-appointment.
- (4) A member of the Planning Assessment Commission may not hold office as a member for more than 6 years in total.

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Provisions relating to planning bodies

Schedule 5

5.3 Full-time or part-time office

- (1) The Minister may appoint a member of the Planning Assessment Commission 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.
- (2) The office of a member of any other planning body is a part-time office.

5.4 Deputy chairperson- regional planning panels and subregional planning boards

- (1) The State member of a regional planning panel who is not the chairperson is to be the deputy chairperson of the panel.
- (2) A subregional planning board may elect a deputy chairperson from among its State members.
- (3) The deputy chairperson of a subregional planning board vacates office as deputy chairperson if he or she:
 - (a) is removed from that office by the board, or
 - (b) resigns that office by instrument in writing addressed to the board, or
 - (c) ceases to be a member of the board.

5.5 Remuneration of members (cl 268L 2000 Reg)

- (1) A member of a planning body (other than a full-time member of the Planning Assessment Commission) 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.
- (2) A full-time member of the Planning Assessment Commission is entitled to be paid:
 - (a) remuneration in accordance with the *Statutory and Other Offices Remuneration Act 1975*, and
 - (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of the member.

5.6 Alternate members (except for Planning Assessment Commission) (cl 268M 2000 Reg)

- (1) In this clause:

appointing authority for a member of a planning body means the Minister, Director-General or council that appointed or nominated the member.

planning body does not include the Planning Assessment Commission.

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Schedule 5 Provisions relating to planning bodies

- (2) The appointing authority may, from time to time, appoint a person to be the alternate of a member of a planning body, 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 may be appointed as the alternate of 2 or more members, but may represent only one of those members at any meeting of the planning body.
- (6) 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.
- (7) If the chairperson of a planning body is appointed from among a number of members of the body, the alternate of a member who is the chairperson does not have the member's functions as chairperson unless the appointing authority authorises the alternate to exercise those functions.

5.7 Removal from office of members

- (1) Except as provided by this clause, the Minister may remove a member of a planning body from office for any or no stated reason and without notice.
- (2) The Minister may only remove a member of the Planning Assessment Commission 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) In the case of a council nominee of a regional planning panel, the applicable council may remove the member from office for any or no stated reason and without notice. The Minister may also remove the member from office, but only if the Independent Commission Against Corruption has made a recommendation of the kind referred to in subclause (2).

5.8 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

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- (c) resigns the office by instrument in writing addressed to the Minister (or, in the case of a council nominee of a regional planning panel, addressed to the applicable council), or
 - (d) is removed from office by the Governor under Chapter 5 of the *Public Sector Employment and Management Act 2002*, or
 - (e) is absent from 3 consecutive meetings of the planning body of which reasonable notice has been given to the member personally or by post, except on leave granted by the planning body or unless the member is excused by the planning body 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) If the office of a member becomes vacant, a person may, subject to this Act and the regulations, be appointed to fill the vacancy.

5.9 Chairperson - vacation of office

- (1) If the chairperson of a planning body is appointed by the Minister or the Director-General from among a number of members of the body, the person vacates office as chairperson if he or she:
- (a) is removed from the office of chairperson by the Minister or Director-General, or
 - (b) resigns the office of chairperson by instrument in writing addressed to the Minister or Director-General.
- (2) A person vacates office as chairperson of a planning body if the person vacates office as a member of the body.

5.10 Effect of certain other Acts

- (1) Chapter 1A of the *Public Sector Employment and Management Act 2002* does not apply to or in respect of the appointment of 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

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Schedule 5 Provisions relating to planning bodies

(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.

Part 3 Provisions relating to procedure

5.11 General procedure (cl 268D 2000 Reg)

- (1) The procedure for the calling of meetings of a planning body and for the conduct of business at those meetings is, subject to the planning legislation and any directions by the Minister, to be as determined by the planning body.
- (2) Subject to this clause, a planning body is not bound by the rules of evidence.
- (3) Nothing in this Schedule derogates from any law relating to Crown privilege.

5.12 Quorum (cl 268E 2000 Reg)

- (1) The quorum for a meeting of a planning body (other than a regional planning panel) is a majority of its members for the time being (including the chairperson).
- (2) The quorum for a meeting of a regional planning panel is any 2 members.

5.13 Presiding member (cl 268F 2000 Reg)

- (1) The chairperson or, in the absence of the chairperson, the deputy chairperson (if any) or a person elected by the members, is to preside at a meeting of a planning body.
- (2) In the case of the Planning Assessment Commission, the chairperson may appoint a member to preside at a meeting of the Commission, in which case a reference in subclause (1) to the chairperson includes a reference to any such appointed member.
- (3) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

5.14 Voting (cl 268G 2000 Reg)

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

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5.15 Public meetings (cl 268H 2000 Reg)

A planning body may (unless the Minister otherwise directs) conduct its meetings in public, and is required to do so for the conduct of any business that is required to be conducted in public by a direction of the Minister.

5.16 Transaction of business outside meetings or by telephone etc (cl 268I 2000 Reg)

- (1) A planning body may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the planning body 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 planning body.
- (2) A planning body may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other 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 chairperson and each member of the planning body have the same voting rights as they have at an ordinary meeting of the planning body.
- (4) A resolution approved under subclause (1) is to be recorded in the minutes of the meetings of the planning body.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by electronic transmission of the information in the papers concerned.

5.17 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 planning body, 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 body.

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- (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 to, 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 planning body 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 planning body and that record must be open at all reasonable hours to inspection by any person on payment of the fee determined by the planning body.
- (6) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the planning body otherwise determines:
- (a) be present during any deliberation of the planning body with respect to the matter, or

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- (b) take part in any decision of the planning body with respect to the matter.
- (7) For the purposes of the making of a determination by the planning body 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 body for the purpose of making the determination, or
 - (b) take part in the making by the planning body of the determination.
- (8) A contravention of this clause does not invalidate any decision of the planning body.
- (9) This clause extends to a council nominee of a regional planning panel, and the provisions of Part 2 (Duties of disclosure) of Chapter 14 of the *Local Government Act 1993* do not apply to any such nominee when exercising functions as a member of the panel.

5.18 Provision of information by planning bodies

A planning body must provide the Minister with such information and reports as the Minister may, from time to time, request.

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Schedule 6 Savings, transitional and other provisions

Schedule 6 Savings, transitional and other provisions

Part 1 General

6.1 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.

Part 2 Provisions consequent on enactment of this Act

Drafting note. Provisions of a savings or transitional nature to be included here or to be dealt with in the regulations.