



New South Wales

# Planning Legislation Amendment (Greater Sydney Commission) Bill 2018

## Explanatory note

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

## Overview of Bill

The objects of this Bill are as follows:

- (a) to enable the Independent Planning Commission (the *IPC*) to appoint additional members from subcommittees of the IPC and enable terms of members to be extended to complete work,
- (b) to extend by 12 months the second review of the Greater Sydney regional strategic plan,
- (c) to require the support of the Greater Sydney Commission (the *GSC*) before local strategic planning statements of councils can be made,
- (d) to require the Minister for Planning (the *Minister*) to consult with the GSC about a proposed State environmental planning policy (a *SEPP*) relating to land within the Greater Sydney Region if the SEPP is likely to significantly affect the implementation of a strategic plan,
- (e) to require the Minister to refer a planning proposal for a local environmental planning instrument (an *LEP*) to the GSC if it relates to land within the Greater Sydney Region and the proposal is likely to significantly affect the implementation of a strategic plan,
- (f) to remove from the GSC the function of making LEPs,
- (g) to appoint additional ex-officio members to the GSC and to provide that up to 3 persons are to be appointed as Greater Sydney Commissioners in addition to the Chief Commissioner,
- (h) to confer on the GSC additional advisory and assurance functions and to enable the GSC to obtain information from government agencies (including councils),
- (i) to update the functions of the Natural Resources Commission and to clarify certain auditing functions of that Commission,

- (j) to make other minor and consequential amendments and amendments of a savings or transitional nature.

## Outline of provisions

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

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

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

**Schedule 1 [1]** makes it clear that the Minister for Planning may appoint a member of a subcommittee of the IPC as an additional member of the IPC for the purpose of exercising specific functions of the IPC.

**Schedule 1 [2]** extends the time when the next review of the regional strategic plan for the Greater Sydney Region is to be undertaken from the end of 2022 to the end of 2023.

**Schedule 1 [3]** requires a council of an area in the Greater Sydney Region to obtain the written advice of the GSC that it supports a local strategic planning statement before making the statement. **Schedule 1 [4]** makes a consequential amendment.

**Schedule 1 [6]** requires the Minister to consult with the GSC before recommending the making of a SEPP if the proposed instrument relates to land within the Greater Sydney Region and the Minister is of the opinion that giving effect to the proposed instrument is likely to significantly affect the implementation of a strategic plan affecting that Region.

**Schedule 1 [7]** removes the power of the GSC to make LEPs for the local government areas in the Greater Sydney Region. **Schedule 1 [5], [8], [9] and [10]** make consequential amendments.

**Schedule 1 [11]** requires the Minister to seek advice from the GSC as to whether or not it supports a planning proposal for an LEP before making a determination that the proposal may proceed, if the proposal relates to land within the Greater Sydney Region and the Minister is of the opinion that giving effect to the proposal is likely to significantly affect the implementation of a strategic plan affecting that Region.

**Schedule 1 [12] and [13]** remove the powers of the GSC with respect to development control plans as a consequence of the removal of its plan-making powers.

**Schedule 1 [14]** removes the requirement for the IPC to issue a report on a matter for which it has conducted a public hearing in the circumstances where the IPC is also the consent authority for a matter to which the hearing relates.

**Schedule 1 [15]** enables the Minister for Planning to extend the term of appointment of a member of the IPC after the term expires so as to enable the member to complete a function.

## **Schedule 2      Amendment of Greater Sydney Commission Act 2015 No 57**

**Schedule 2 [2]** enables the regulations that extend the area of the Greater Sydney Region to also limit the functions of the GSC in respect of the extended area.

**Schedule 2 [3]** provides for the appointment of the Chief Commissioner of the GSC separately from the appointment of the other Greater Sydney Commissioners. **Schedule 2 [1] and [7]** make consequential amendments.

**Schedule 2 [4]** provides for the appointment of up to 3 members as Greater Sydney Commissioners. At present, 4 persons (including the Chief Commissioner of the GSC) must be appointed in this category of membership. **Schedule 2 [8]** is a consequential amendment.

**Schedule 2 [5], [13], [18] and [21]** update references to the *Environmental Planning and Assessment Act 1979* (the **Planning Act**).

**Schedule 2 [6]** makes the Secretary of the Department of Premier and Cabinet and the Chief Executive Officer of the GSC ex-officio members of the GSC.

**Schedule 2 [9]** provides that a person appointed to the GSC may, if there are fewer than 3 members appointed as Greater Sydney Commissioners, have principal responsibility for more than one of the 3 matters (namely, environmental, social or economic) relating to the activities of the GSC.

**Schedule 2 [10]** provides that a District Commissioner may be appointed to represent more than one district in the Greater Sydney Region.

**Schedule 2 [11]** confers on the GSC the function of providing advice and making recommendations to the Minister administering the *Greater Sydney Commission Act 2015*, and other Ministers with the approval of the Minister administering the Act, on matters relating to land use and infrastructure in the Greater Sydney Region.

**Schedule 2 [12]** confers on the GSC the functions of providing progress and assurance reports to the Minister administering the *Greater Sydney Commission Act 2015*, and other Ministers with the approval of the Minister administering the Act, about the preparation and implementation of plans or proposals relating to development in the Greater Sydney Region.

**Schedule 2 [14]** confers on the GSC the function of providing the Minister administering the Planning Act with information, advice or reports at the Minister's request. **Schedule 2 [15]** makes a consequential amendment.

**Schedule 2 [16]** omits a note as a consequence of the removal of the LEP-making functions of the GSC.

**Schedule 2 [17]** imposes on government agencies (including councils) an obligation to provide information to the GSC that is relevant to the exercise of the GSC's functions in response to a reasonable request made by the GSC.

**Schedule 2 [19]** enables the GSC, or a delegate of the GSC (with the consent of the GSC), to delegate functions to the Secretary or other persons employed in the Department of Premier and Cabinet.

**Schedule 2 [20]** makes the Chief Executive Officer of the GSC a member of the Finance and Governance Committee of the GSC.

**Schedule 2 [22]** provides that the appointment of existing members of the GSC is not affected by the amendments made by the proposed Act.

## **Schedule 3      Amendment of other legislation**

### **Schedule 3.1 Biodiversity Conservation Act 2016 No 63**

**Schedule 3.1** makes an amendment consequential on the removal of the LEP-making functions of the GSC.

### **Schedule 3.2 Environment Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017**

**Schedule 3.2 [1]** enables the Minister to make LEPs for matters approved before the removal of the LEP-making functions of the GSC.

**Schedule 3.2 [2] and [3]** provide that provisions that preserve delegations and existing plan-making processes for the purposes of the exercise of LEP-making functions by the GSC will cease to have effect on the removal of those powers.

### **Schedule 3.3 Local Land Services Act 2013 No 51**

**Schedule 3.3 [1]** enables the 5-yearly audit of the State strategic plan for local land services in the State to be carried out by the Natural Resources Commission as well as by an independent person, body or panel appointed by the Minister for Primary Industries.

**Schedule 3.3 [2]** enables the 3-yearly audit of the local strategic plan for local land services in a region to be carried out by the Natural Resources Commission as well as by an independent person, body or panel appointed by the Minister for Primary Industries.

### **Schedule 3.4 Natural Resources Commission Act 2003 No 102**

**Schedule 3.4 [1]** removes from the Natural Resources Commission the function of enabling the adoption of State-wide standards and targets for natural resource management issues.

**Schedule 3.4 [2]** makes it clear that the Natural Resources Commission also has functions under other Acts.

**Schedule 3.4 [3]** confers on the Natural Resources Commission functions relating to advising on strategic or investment priorities in natural resource management in the State, undertaking audits relating to forestry or water management issues and advising on program design for natural resource management.



New South Wales

# Planning Legislation Amendment (Greater Sydney Commission) Bill 2018

## Contents

---

		Page
	1 Name of Act	2
	2 Commencement	2
<b>Schedule 1</b>	<b>Amendment of Environmental Planning and Assessment Act 1979 No 203</b>	<b>3</b>
<b>Schedule 2</b>	<b>Amendment of Greater Sydney Commission Act 2015 No 57</b>	<b>5</b>
<b>Schedule 3</b>	<b>Amendment of other legislation</b>	<b>8</b>



New South Wales

# Planning Legislation Amendment (Greater Sydney Commission) Bill 2018

No. , 2018

---

## **A Bill for**

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

---

**The Legislature of New South Wales enacts:**

1

**1 Name of Act**

2

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

3

4

**2 Commencement**

5

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

6

<b>Schedule 1</b>	<b>Amendment of Environmental Planning and Assessment Act 1979 No 203</b>	1
		2
<b>[1] Section 2.8 Members of Commission</b>		3
Insert after section 2.8 (5):		4
(6) Without limiting subsection (5), the Minister may appoint as an additional member for the purposes of that subsection a person who is a member of a subcommittee of the Commission. Any such appointment may be limited to a particular matter or matters, in addition to any limitation relating to specific functions.		5 6 7 8 9
<b>[2] Section 3.5 Making and review of regional strategic plans</b>		10
Insert “, at the end of 2023” after “the end of 2017” in section 3.5 (4).		11
<b>[3] Section 3.9 Local strategic planning statements of councils</b>		12
Insert after section 3.9 (3):		13
(3A) The council for an area that is in the Greater Sydney Region must not make a local strategic planning statement unless the Greater Sydney Commission has advised the council in writing that the Commission supports the statement as being consistent with the applicable regional and district strategic plans.		14 15 16 17
<b>[4] Section 3.9 (4)</b>		18
Insert “and the support of the Greater Sydney Commission if it is required by this section” after “ward”.		19 20
<b>[5] Sections 3.22 (1) (c), 3.32 (2) (a), (b) and (d), 3.34 (2) and (5)–(7) and 3.35 (3) and (4)</b>		21
Omit “or Greater Sydney Commission” wherever occurring.		22
<b>[6] Section 3.30 Consultation requirements</b>		23
Insert at the end of the section, before the note:		24
(2) Before recommending the making of an environmental planning instrument by the Governor, the Minister must consult with the Greater Sydney Commission if:		25 26 27
(a) the proposed instrument relates to land within the Greater Sydney Region, and		28 29
(b) the Minister is of the opinion that the proposed instrument is likely to significantly affect the implementation of a strategic plan affecting that Region.		30 31 32
<b>[7] Section 3.31 Making of environmental planning instruments for local areas (LEPs)</b>		33
Omit section 3.31 (3). Insert instead:		34
(3) For the purposes of this Division, the following are <i>local plan-making authorities</i> :		35 36
(a) the Minister,		37
(b) a council for its local government area if the gateway determination under this Division authorises the council to make the local environmental plan concerned.		38 39 40

<b>[8] Section 3.32 Planning proposal authority</b>	1
Omit “, or the Greater Sydney Commission in relation to the Greater Sydney Region,” from section 3.32 (2).	2 3
<b>[9] Sections 3.32 (4) and 3.46 (3)–(6)</b>	4
Omit “or the Greater Sydney Commission” wherever occurring.	5
<b>[10] Sections 3.34 (1) and 3.35 (2)</b>	6
Omit “or, if the planning proposal relates to the Greater Sydney Region, to the Greater Sydney Commission” wherever occurring.	7 8
<b>[11] Section 3.34 Gateway determination</b>	9
Insert after section 3.34 (3):	10
(3A) Before making a determination under subsection (2), the Minister must refer the planning proposal to the Greater Sydney Commission if:	11 12
(a) the proposal relates to land within the Greater Sydney Region, and	13
(b) the Minister is of the opinion that the proposal is likely to significantly affect the implementation of a strategic plan affecting that Region.	14 15
(3B) On referral of a proposal, the Greater Sydney Commission must, within the period specified by the Minister, advise the Minister as to whether or not the Commission supports the planning proposal.	16 17 18
<b>[12] Section 3.44 Development control plans required or authorised by environmental planning instruments</b>	19 20
Omit section 3.44 (5) (b). Insert instead:	21
(b) the Minister may act in the place of the relevant planning authority to make the plan (with or without modification), but only if the environmental planning instrument concerned authorises the Minister to do so.	22 23 24 25
<b>[13] Section 3.46 Minister may direct councils with respect to development control plans</b>	26
Omit “or, if the matter relates to the Greater Sydney Region, the Greater Sydney Commission” from section 3.46 (1).	27 28
<b>[14] Schedule 2 Provisions relating to planning bodies</b>	29
Insert after clause 6 (3):	30
(4) This clause does not apply if the public hearing relates to proposed development the subject of an application for development consent for which the Commission is the consent authority.	31 32 33
<b>[15] Schedule 2, clause 11 (4A)</b>	34
Insert after clause 11 (4):	35
(4A) Despite any other provision of this clause, the Minister may, by instrument in writing, extend the term of appointment of a member of the Independent Planning Commission for the purpose of enabling the member to complete a function as a member after the time that the term would otherwise end.	36 37 38 39

<b>Schedule 2</b>	<b>Amendment of Greater Sydney Commission Act 2015 No 57</b>	1
		2
<b>[1] Section 3 Definitions</b>		3
	Insert “the Chief Commissioner or” after “means” in the definition of <i>Greater Sydney Commissioner</i> in section 3 (1).	4 5
<b>[2] Section 4 Amendment of area comprising Greater Sydney Region</b>		6
	Insert at the end of the section:	7
	(2) A regulation that has the effect of extending the Greater Sydney Region to a local government area may also limit the functions of the Commission in respect of that area.	8 9 10
<b>[3] Section 6 Members of Commission</b>		11
	Insert before section 6 (1) (a):	12
	(a1) a person appointed by the Minister as the Chief Commissioner of the Commission,	13 14
<b>[4] Section 6 (1) (a)</b>		15
	Omit “4 persons appointed by the Minister (the <i>Greater Sydney Commissioners</i> )”.	16
	Insert instead “up to 3 persons appointed by the Minister”.	17
<b>[5] Section 6 (1) (b)</b>		18
	Omit “section 75AB (b)”. Insert instead “section 3.2 (b)”.	19
<b>[6] Section 6 (1) (c)</b>		20
	Omit the paragraph. Insert instead:	21
	(c) each of the following (the <i>ex-officio members</i> ):	22
	(i) the Secretary of the Department of Premier and Cabinet,	23
	(ii) the Secretary of the Department of Planning and Environment,	24
	(iii) the Secretary of the Department of Transport,	25
	(iv) the Secretary of the Treasury,	26
	(v) the Chief Executive Officer.	27
<b>[7] Section 6 (2)</b>		28
	Omit the subsection.	29
<b>[8] Section 6 (3)</b>		30
	Omit “3 other Greater Sydney Commissioners”.	31
	Insert instead “Greater Sydney Commissioners appointed under subsection (1) (a)”.	32
<b>[9] Section 6 (3A)</b>		33
	Insert after section 6 (3):	34
	(3A) If there are fewer than 3 persons appointed under subsection (1) (a), the Minister may appoint a person to exercise more than one of the principal responsibilities specified in subsection (3).	35 36 37

<b>[10] Section 6 (4A)</b>	1
Insert after section 6 (4):	2
(4A) A person may be appointed as a District Commissioner to represent more than one district in the Greater Sydney Region.	3 4
<b>[11] Section 10 Functions of Commission</b>	5
Insert after section 10 (1) (a):	6
(a1) to provide advice and make recommendations to the Minister administering this Act, and other Ministers with the approval of the Minister administering this Act, on matters relating to land use and infrastructure in the Greater Sydney Region,	7 8 9 10
<b>[12] Section 10 (1) (c1)</b>	11
Insert after section 10 (1) (c):	12
(c1) to provide progress and assurance reports to the Minister administering this Act, and other Ministers with the approval of the Minister administering this Act, on matters relating to the preparation and implementation of any plan or proposal relating to development in the Greater Sydney Region,	13 14 15 16 17
<b>[13] Section 10 (1) (d)</b>	18
Omit “section 129”. Insert instead “section 7.35”.	19
<b>[14] Section 10 (1) (f1)</b>	20
Insert after section 10 (1) (f):	21
(f1) to provide the Minister administering the Planning Act with any information, advice or reports requested by the Minister administering the Planning Act,	22 23 24
<b>[15] Section 10 (1) (g)</b>	25
Insert “or the Minister administering the Planning Act” after “Minister administering this Act”.	26 27
<b>[16] Section 10 (3), note</b>	28
Omit the note.	29
<b>[17] Section 10A</b>	30
Insert after section 10:	31
<b>10A Obligation of government agencies to provide information</b>	32
(1) A government agency has an obligation to comply with a reasonable request by the Commission to provide information that is relevant to the exercise by the Commission of the Commission’s functions.	33 34 35
(2) In this section:	36
<i>government agency</i> means:	37
(a) a public authority constituted by or under an Act, or	38
(b) a NSW government agency, or	39
(c) a Public Service agency, or	40
(d) a council, or	41

	(e) a State owned corporation.	1
<b>[18]</b>	<b>Section 11 Delegation of Commission’s functions</b>	2
	Omit “Part 2” from section 11 (3) (c) and (f) wherever occurring.	3
	Insert instead “Division 2.4”.	4
<b>[19]</b>	<b>Section 11 (3) (e1)</b>	5
	Insert after section 11 (3) (e):	6
	(e1) the Secretary of or other person employed in the Department of Premier and Cabinet,	7 8
<b>[20]</b>	<b>Section 12 Finance and Governance Committee</b>	9
	Insert “and the Chief Executive Officer” after “Commissioners” in section 12 (2).	10
<b>[21]</b>	<b>Sections 13 (3) (b) (i) and 21 (b)</b>	11
	Omit “Part 3B” wherever occurring. Insert instead “Division 3.1”.	12
<b>[22]</b>	<b>Schedule 4 Savings, transitional and other provisions</b>	13
	Insert after Part 2:	14
	<b>Part 3 Provision consequent on Planning Legislation Amendment (Greater Sydney Commission) Act 2018</b>	15 16 17
	<b>3 Existing members of Commission</b>	18
	The amendments made to section 6 of this Act by the <i>Planning Legislation Amendment (Greater Sydney Commission) Act 2018</i> do not affect the appointment of a person holding office as a member of the Commission immediately before the commencement of those amendments.	19 20 21 22

<b>Schedule 3</b>	<b>Amendment of other legislation</b>	1
<b>3.1</b>	<b>Biodiversity Conservation Act 2016 No 63</b>	2
	<b>Section 8.1 Definitions: Part 8</b>	3
	Omit paragraph (b) of the definition of <i>planning authority</i> .	4
<b>3.2</b>	<b>Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017</b>	5
		6
<b>[1]</b>	<b>Part 3</b>	7
	Insert after Part 2 with appropriate clause numbering:	8
	<b>Part 3 Provisions consequent on enactment of Planning Legislation Amendment (Greater Sydney Commission) Act 2018</b>	9
		10
		11
	<b>Continuation of LEP-making processes for areas in Greater Sydney Region</b>	12
	(1) The Minister may, on or after the commencement of this clause, make a local environmental plan that applies to a local government area in the Greater Sydney Region even though the process under Part 3 of the Act (including the preparation of the relevant planning proposal, community consultation and gateway determination) was commenced, or occurred, before that commencement.	13
		14
		15
		16
		17
		18
	(2) For that purpose, anything done by or for the Greater Sydney Commission before that commencement under Part 3 of the Act in connection with the proposed plan is taken to have been done by or for the Minister.	19
		20
		21
	(3) Nothing in this clause prevents a council designated, before that commencement, as the local plan-making authority for a local environmental plan that applies to a local government area in the Greater Sydney Region from making the plan.	22
		23
		24
		25
<b>[2]</b>	<b>Schedule 4 Transferred savings, transitional and other provisions—former provisions of Environmental Planning and Assessment Regulation 2000</b>	26
		27
	Insert at the end of clause 49:	28
	(2) This clause ceases to have effect on the commencement of Schedule 1 [7] to the <i>Planning Legislation Amendment (Greater Sydney Commission) Act 2018</i> .	29
		30
<b>[3]</b>	<b>Schedule 4, clause 50 (2)</b>	31
	Insert at the end of clause 50:	32
	(2) This clause ceases to have effect on the commencement of Schedule 1 [7] to the <i>Planning Legislation Amendment (Greater Sydney Commission) Act 2018</i> .	33
		34
<b>3.3</b>	<b>Local Land Services Act 2013 No 51</b>	35
<b>[1]</b>	<b>Section 44 Periodic review and auditing of plans</b>	36
	Insert “the Natural Resources Commission or” after “carried out by” in section 44 (3).	37
<b>[2]</b>	<b>Section 54 Periodic review and auditing of local strategic plans</b>	38
	Insert “the Natural Resources Commission or” after “carried out by” in section 54 (4).	39

<b>3.4 Natural Resources Commission Act 2003 No 102</b>	1
<b>[1] Section 3</b>	2
Omit the section. Insert instead:	3
<b>3 Object of Act</b>	4
The object of this Act is to establish an independent body with broad investigating and reporting functions for the purposes of establishing a sound evidence basis for the properly informed management of natural resources in the social, economic and environmental interests of the State.	5 6 7 8
<b>[2] Section 12 General functions</b>	9
Insert “or any other” after “under this” in section 12 (2).	10
<b>[3] Section 13 Specific functions</b>	11
Omit section 13 (1) (c) and (d). Insert instead:	12
(b) to advise on strategic or investment priorities in natural resource management in this State as required by the Minister,	13 14
(c) to undertake audits of compliance with State-wide standards and targets for natural resource management issues,	15 16
(d) to undertake audits and reviews of other natural resource management issues as required by the Minister,	17 18
(d1) without limiting paragraph (d), to undertake audits and reviews relating to forestry or water management issues as required by the Minister,	19 20
(d2) to advise on program design for natural resource management as required by the Minister,	21 22