

# Dams Safety Act 1978 No 96

[1978-96]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
*Work Health and Safety (Mines) Act 2013 No 54* (not commenced)

### Authorisation

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# Dams Safety Act 1978 No 96



New South Wales

An Act to constitute the Dams Safety Committee and to confer and impose on the Committee functions relating to the safety of certain dams.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Dams Safety Act 1978*.

### 2 Commencement

- (1) This section and section 1 shall commence on the date of assent to this Act.
- (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

### 3 (Repealed)

### 4 Definitions

- (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

**chairperson** means the chairperson of the Committee appointed under section 9.

**Committee** means the Dams Safety Committee constituted under section 7.

**functions** includes powers, authorities and duties.

**member** means a member of the Committee.

**owner**, in relation to a dam, means any person or public authority who, whether solely or with some other person or public authority, owns, controls, operates, manages or maintains the dam and includes any person or public authority who, whether solely or with some other person or public authority, proposes to build a dam.

**prescribed dam** means a dam, or proposed dam, for the time being specified or described in Schedule 1.

**public authority** means any public or local authority constituted by or under an Act other than this Act.

**regulation** means a regulation made under this Act.

- (2) A reference in this Act to the exercise of a function includes, where the function is a duty, the performance of that duty.

## 5 Act binds Crown

This Act, section 30 excepted, binds the Crown not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

## 6 Liability of certain persons not affected

Nothing in this Act derogates from or affects the liability of any person arising from any act or omission of that person or the person's servants or agents with respect to a prescribed dam.

# Part 2 Constitution of the Committee

## 7 The Committee

- (1) There is hereby constituted a corporation under the corporate name of the "Dams Safety Committee".
- (2) The Committee is, for the purposes of any Act, a statutory body representing the Crown.
- (3) In the exercise of its functions (except in relation to the contents of a report or recommendation made by it to the Minister or any other person), the Committee shall be subject in all respects to the control and direction of the Minister.

## 8 Members

- (1) The Committee shall consist of 9 part-time members appointed by the Minister.
- (2) The members shall be:
- (a) a person nominated by Snowy Hydro Limited,
  - (a1) a person nominated by the portfolio Minister under the [State Owned Corporations Act 1989](#) for the electricity generators that are State owned corporations under that Act,
  - (b) a person nominated by the Sydney Catchment Authority constituted under the [Sydney Water Catchment Management Act 1998](#),
  - (c) a person nominated by State Water Corporation constituted under the [State Water](#)

*Corporation Act 2004,*

(d) a person nominated by the Hunter Water Corporation referred to in the *Hunter Water Board (Corporatisation) Act 1991,*

(e) a person nominated by the Minister administering the *Public Works Act 1912,*

(f) 2 persons nominated by the Federal Council of the Institution of Engineers, Australia, and

(g) a person nominated by the Minister administering the *Mining Act 1992.*

(3) A person shall not be nominated for appointment as a member unless the person is, in the opinion of the person making the nomination, experienced in dam engineering.

(4) Where, for the purposes of subsection (2), a nomination of a person for appointment as a member is not made within the time or in the manner specified by the Minister in a notice in writing given to the body or person entitled to make the nomination, the Minister may appoint any person who, in the opinion of the Minister, is experienced in dam engineering to be a member instead of the person required to be appointed on that nomination.

(5) Nothing in subsection (3) or (4) prevents the nomination or appointment of a person who is not, in the opinion of the person making the nomination or appointment, experienced in dam engineering as the member referred to in subsection (2) (g).

## **9 Chairperson**

The Minister shall appoint one of the members as chairperson of the Committee.

## **10 Provisions relating to the constitution and procedure of the Committee**

Schedule 2 has effect.

## **11 Committee may make use of facilities and employees of Crown etc**

For the purpose of exercising its functions, the Committee may, with the approval of the Minister and of the Department or public authority concerned and on such terms as may be arranged, make use of the facilities, or the services of any officers, employees or servants, of any Department of the Government or of any public authority.

## **12 Sub-committees**

(1) The Committee may establish standing or special sub-committees for the purpose of advising the Committee in the exercise of its functions under this Act and may appoint as a member of any such sub-committee any person who, in its opinion, appears to be qualified to be a member of that sub-committee, whether or not the person is a member of the Committee.

- (2) The Committee shall appoint one of the members of a sub-committee established under subsection (1) to be chairperson of the sub-committee and any such sub-committee may, subject to subsection (3) and to any directions of the Committee, regulate its procedure in such manner as it thinks fit.
- (3) The Committee may specify the number of persons who shall constitute a quorum of a sub-committee established under this section.

### **13 Dams Safety Committee Account**

- (1) There shall be established in the Special Deposits Account in the Treasury a Dams Safety Committee Account into which shall be deposited all money received by the Committee and from which shall be paid all amounts required to meet expenditure incurred in accordance with the provisions of this Act.
- (2) The Treasurer may, out of money provided by Parliament, from time to time make such contributions to the funds of the Committee as may be determined by the Treasurer.

## **Part 3 Functions of the Committee**

### **14 Functions of Committee**

The functions of the Committee are:

- (a) to maintain a surveillance of prescribed dams, the environs under, over and surrounding prescribed dams and the waters or other materials impounded by prescribed dams to ensure the safety of prescribed dams,
- (b) to examine and investigate the location, design, construction, reconstruction, extension, modification, operation and maintenance of prescribed dams, the environs under, over and surrounding prescribed dams and the waters or other materials impounded by prescribed dams,
- (c) to obtain information and keep records on matters relating to the safety of dams,
- (d) to formulate measures to ensure the safety of dams,
- (e) to make such reports or recommendations to the Minister or any other person in relation to the safety of prescribed dams as the Committee considers necessary or appropriate,
- (f) to make reports and recommendations with respect to the prescription of dams for the purposes of this Act,
- (g) to exercise such other functions as are conferred or imposed on the Committee by or under this or any other Act or the regulations, and

- (h) to do such supplemental, incidental and consequential acts as may be necessary or expedient for the exercise of its functions.

### **15 Keeping and furnishing information**

- (1) The Committee may, by notice in writing, require the owner of a prescribed dam specified in the notice to do either or both of the following things:
  - (a) make such observations, take such measurements and keep such records of or in respect of the prescribed dam, the environs over, under and surrounding the prescribed dam and the water or other material impounded by the prescribed dam as may be specified in the notice,
  - (b) furnish to the Committee in respect of the prescribed dam such information and such books, plans, documents or other papers and such films, tapes or other records as may be specified or described in the notice,and the owner shall comply with the requirement.
- (2) Where an owner of a prescribed dam fails to comply with the requirement of a notice under subsection (1), the Committee may exercise the functions referred to in subsection (1) (a) in respect of the prescribed dam and recover the costs and expenses thereof or incidental thereto from the owner as a debt in any court of competent jurisdiction.

### **16 Entry, inspection, testing etc**

- (1) In this section, a reference to land comprising a dam includes a reference to the water or other material impounded by the dam.
- (2) The Committee may authorise a person, in writing, to carry out inspections, for the purposes of this Act, of any dam.
- (3) A person authorised under subsection (2) may enter any land or any place on any land comprising any dam or the environs over, under or surrounding any dam and may thereon or therein carry out such inspections, tests, investigations, surveys, experiments, boring, drilling and exploration, and take such samples and such photographs, as the person considers necessary in connection with the administration of this Act.
- (4) A person authorised under subsection (2) shall not, in relation to any land or any place on any land, exercise any of the functions conferred by subsection (3) unless reasonable notice has been given to the owner or occupier of the land or place of the intention to exercise those functions.
- (5) In addition to the requirements of subsection (4), a person authorised under subsection (2) shall not exercise any of the functions conferred by subsection (3):



- (a) in relation to any land or any place on any land which comprises a mine within the meaning of the *Coal Mine Health and Safety Act 2002* unless:
  - (i) reasonable notice has been given to the Chief Inspector appointed as referred to in that Act of the intention to exercise those functions, and
  - (ii) the person is accompanied by the Chief Inspector or a person nominated by that Chief Inspector in the exercise of those functions, or
- (b) in relation to any land or any place on any land which comprises a mine within the meaning of the *Mining Act 1992* unless:
  - (i) reasonable notice has been given to the Chief Inspector within the Department of Mineral Resources of the intention to exercise those functions, and
  - (ii) the person is accompanied by the Chief Inspector or a person nominated by that Chief Inspector in the exercise of those functions.
- (6) In the exercise of a function conferred by subsection (3), the Committee shall ensure that no more damage than may be necessary in the circumstances is inflicted and shall fully compensate any person who sustains damage in the course of the exercise of that function.
- (7) A person authorised under subsection (2), in exercising a function conferred by subsection (3) in relation to any land or any place on any land, shall, if so required by a person apparently in charge of that land or place produce the instrument of his or her authority to that person.

#### **17 Obstruction of authorised person**

A person shall not obstruct, hinder or interfere with a person authorised under section 16 (2) in the exercise of the person's functions under section 16.

#### **18 Giving of notices to ensure safety of prescribed dams**

- (1) Where it appears to the Committee that a prescribed dam is unsafe or is in danger of becoming unsafe, the Committee may, by notice in writing, require the owner of the prescribed dam to do such things as are specified or described in the notice as may be reasonably necessary to ensure the safety of the prescribed dam.
- (2) Where it appears to the Committee that anything done or proposed to be done to or in relation to a prescribed dam or in the vicinity of a prescribed dam by the owner of the prescribed dam or any other person may endanger the safety of the prescribed dam, the Committee may, by notice in writing, require the owner or other person, as the case may be, to do such things as are specified or described in the notice as may be reasonably necessary to ensure the safety of the prescribed dam and the owner or other person shall comply with the requirement.

- (3) A notice under subsection (2) requiring the cessation of any work or activity being done or proposed to be done to or in relation to a prescribed dam or in the vicinity of a prescribed dam by a person other than the owner of the prescribed dam shall not be given without the approval of:
- (a) except as provided by paragraph (b), the Minister, or
  - (b) where the work or activity relates to the operation of:
    - (i) a mine within the meaning of the *Coal Mine Health and Safety Act 2002*, or
    - (ii) a mine within the meaning of the *Mining Act 1992*,the Premier.

## **19 Inquiries**

- (1) The Committee may, and if directed to do so by the Minister shall, conduct an inquiry into any matter relating to the safety of a prescribed dam.
- (2) The Committee may, by order in writing, authorise, on such terms and conditions as are specified in the order:
- (a) a sub-committee established under section 12, or
  - (b) with the approval of the Minister, any other person,
- to examine, and report to the Committee on, any matter in connection with an inquiry (including an inquiry that the Minister has directed to be conducted).
- (3) Nothing in this section shall be construed as limiting the power of the Committee to conduct an examination in connection with an inquiry under this section and the Committee may conduct such an examination notwithstanding that it has authorised another body or person to do so.

## **20 Evidence at inquiry**

- (1) A body or person conducting an inquiry or examination under section 19 may require a person, by notice in writing:
- (a) within such reasonable time as may be specified in the notice, to furnish to that body or person such information and to produce to that body or person such books, plans, documents or other papers and such films, tapes or other records in the person's possession or under the person's control as may be required for the purpose of the inquiry or examination, as the case may be, and may be specified in the notice, whether generally or otherwise, or
  - (b) to attend, at a time and place specified in the notice, before that body or person and thereafter from time to time as required by that body or person to give

evidence concerning any matter the subject of the inquiry or examination, as the case may be, and to produce all such books, plans, documents or other papers and such films, tapes or other records in the person's possession or under the person's control as may be required for the purpose of that inquiry or examination, as the case may be, and as may be specified in the notice, whether generally or otherwise.

- (2) A body or person conducting an inquiry or examination under section 19 may, subject to section 13 of the *Oaths Act 1900*, require any evidence referred to in subsection (1) (b) to be given on oath, and either in writing or orally, and for that purpose:
  - (a) where the inquiry or examination is being conducted by a body, the person presiding at the inquiry or examination, or
  - (b) where the inquiry or examination is being conducted by a person, that person, may administer an oath.
- (3) A person shall not neglect or refuse to comply with the requirements of a notice served on the person under this section.
- (4) A person shall not:
  - (a) furnish any information referred to in subsection (1) (a) required of the person pursuant to a notice served on the person under subsection (1) that is false or misleading in a material particular, or
  - (b) give any evidence referred to in subsection (1) (b) that is false or misleading in a material particular.
- (5) It is a sufficient defence to a prosecution arising under subsection (4) if the defendant proves that he or she believed the truth of the information or evidence given by him or her and that it was given in good faith.

## **21 State of emergency**

- (1) Where:
  - (a) a prescribed dam has collapsed or failed, in whole or in part, or
  - (b) the Minister, whether or not any recommendation in that behalf has been made to the Minister by the Committee, is of the opinion that a prescribed dam is liable to collapse or failure, in whole or in part,the Minister may, by order in writing, declare that a state of emergency exists in respect of the prescribed dam.
- (2) An order made under subsection (1) shall take effect from the making thereof or from a later date specified in the order and shall, unless sooner revoked, continue in force

for such period as is specified in the order.

- (3) An order made under subsection (1) shall be published in the Gazette as soon as practicable.

## **22 Functions of Committee in state of emergency**

Without limiting or restricting the functions conferred or imposed on the Committee under the other provisions of this Act, where an order made under section 21 (1) is in force, the Committee shall, at the direction or with the approval of the Minister, do any one or more of the following things in relation to the prescribed dam to which the order applies:

- (a) take full charge and control of the prescribed dam, the environs under, over and surrounding the prescribed dam and the water or other material impounded by the prescribed dam,
- (b) release or discharge the whole or such part as the Committee thinks fit of the water or other material impounded by the prescribed dam,
- (c) carry out all such works and do all such things as, in the opinion of the Committee, are necessary to render the prescribed dam safe,
- (d) demolish or remove the whole or any part of the prescribed dam or any work or structure on the prescribed dam, the water or other material impounded by the prescribed dam or the environs under, over or surrounding the prescribed dam,
- (e) take such other action as the Minister directs or approves.

## **23 Recovery of costs and expenses**

The Committee may recover the costs and expenses incurred by it in the exercise of its functions under section 22 in respect of a prescribed dam from the owner of the prescribed dam as a debt in any court of competent jurisdiction.

## **24 Contracts**

- (1) The Committee may make and enter into contracts with any person for the carrying out of works, the performance of services or the supply of goods or materials in connection with the exercise by the Committee of its functions.
- (2) A contract under this section shall be deemed for the purposes of the [Constitution Act 1902](#) to be a contract for or on account of the Public Service of New South Wales.

## **25 Arrangements with public authorities**

- (1) The Committee may enter into an arrangement or agreement with any public authority that:
  - (a) the public authority shall act as agent of the Committee for the purposes of this

Act, or

(b) the Committee shall act as agent of the public authority for the purposes of this Act,

on such terms and conditions as may be agreed upon between the Committee and the public authority.

(2) Notwithstanding anything in any other Act, any public authority is hereby authorised and empowered to enter into arrangements or agreements referred to in subsection (1) and may do or suffer anything necessary or expedient for carrying out any such arrangements or agreements.

## **26 Arrangements for investigation and research**

The Committee may enter into arrangements with:

- (a) a Minister of the Crown of any State, a Minister of State of the Commonwealth or a Department or instrumentality of the Commonwealth or of any State,
- (b) a university or another tertiary institution, or
- (c) any other body or person,

with respect to the conduct of any investigation, study or research that may be necessary or desirable for the purposes of this Act.

## **Part 4 General**

### **27 Amendment etc of Schedule 1**

- (1) The Governor may, by proclamation published on the NSW legislation website, amend Schedule 1:
  - (a) by omitting therefrom the name of a prescribed dam and any matter relating to the description or location of the prescribed dam,
  - (b) by inserting therein the name of a dam and matter relating to the description or location of that dam, or
  - (c) by altering the name of a prescribed dam or any other matter appearing in Schedule 1.
- (2) The Governor may, by proclamation published on the NSW legislation website, amend this Act by omitting Schedule 1 and by inserting instead a Schedule containing the names and locations of dams.

### **28 Delegation**

- (1) The Committee may, by resolution, delegate to:

(a) a member, or

(b) an officer, employee or servant of a Department of the Government or of a public authority,

the exercise of such of the Committee's functions (other than this power of delegation) as may be specified in the resolution, and may, by resolution, revoke wholly or in part any such delegation.

- (2) A function, the exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.
- (3) A delegation under this section may be made subject to conditions or limitations as to the exercise of any functions delegated, or as to time or circumstance.
- (4) Notwithstanding any delegation under this section, the Committee may continue to exercise all or any of the functions delegated.
- (5) Any act or thing done or suffered by a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Committee and shall be deemed to have been done or suffered by the Committee.
- (6) An instrument purporting to be signed by a delegate of the Committee in the person's capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Committee under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Committee under this section.

### **29 Authentication of documents**

A notice or other document requiring authentication by the Committee may be sufficiently authenticated without the seal of the Committee if signed by the chairperson.

### **30 Offences**

A person who contravenes or fails to comply with any provision of this Act or a notice given by the Committee under this Act shall be guilty of an offence and liable to a penalty not exceeding 10 penalty units.

### **31 Proceedings for offences**

Any penalty imposed by this Act or the regulations may be recovered in a summary manner before the Local Court.

### **32 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 for carrying out or giving effect to this Act and, in particular, for or with respect to:

- (a) the procedure for the calling of, and for the conduct of business at, meetings of the Committee,
  - (b) the travelling expenses and the compensation to be paid to persons attending or giving evidence at an inquiry or examination as referred to in section 20, and
  - (c) the remuneration, travelling and subsistence allowances to be paid to members, not being members of the Committee, of a sub-committee established under section 12.
- (2) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by any person specified therein, either generally or for any class of cases or in a particular case.
  - (3) A regulation may be made so as to apply differently according to such factors as may be specified in the regulation.
  - (4) A regulation may impose a penalty not exceeding 5 penalty units for any offence against the regulation.

## Schedule 1 Prescribed dams

(Sections 4 (1), 27)

<b>Column 1</b>	<b>Column 2</b>
<b>Name of dam</b>	<b>Location of dam</b>
A H Whaling Reserve Detention Basin	Quarry Creek, Baulkham Hills
Abbotsbury Park Pond 2	Unnamed creek, Cecil Hills
Aldridges Creek	Aldridges Creek near Ellerstone
Amalfi Park Detention Basin	Brickmakers Creek, Lurnea
Antienne Lease Tailings Dam	Off-stream, near Ravensworth
Ashton Coal Clean Water Dam 1	Tributary of Glennies Creek, near Singleton
Avon	Avon River near Bargo
Bagnalls Beach Road Detention Basin	Off-stream, Corlette, Port Stephens
Bakers Road Detention Basin	Tributary of Coffs Creek, Coffs Harbour
Bamarang	Off-stream storage near Nowra
Banks Road Retarding Basin	Banks Road, Liverpool
Barden Ridge Lower Dam	Mill Creek, Lucas Heights

Barina Park Detention Basin	Minnegang Creek, Wollongong
Bayswater Ash	Pikes Gully near Jerry's Plains
Bayswater Brine Decant	Unnamed watercourse near Muswellbrook
Bayswater Cooling Make Up	Unnamed watercourse near Bayswater
Bayswater 2 Main Dam	Unnamed watercourse, Muswellbrook
Beardy Waters	Beardy Waters near Glen Innes
Beargamil	Beargamil Creek near Parkes
Ben Boyd	Off-stream storage near Eden
Bendeela Pondage	Off-stream storage near Nowra
Bengalla Stage Discharge	Unnamed creek, Bengalla, near Muswellbrook
Bennetts Road Detention Basin	Coffs Creek, Coffs Harbour
Bethungra	Wandalybengle Creek near Bethungra
Beverley Job Park Detention Basin	South Lagoon Creek, Narraweena
Blackbutt Reserve	Unnamed watercourse at Shellharbour
Bloomfield U Cut Tailings	Near Four Mile Creek, Ashtonfield
Blowering	Tumut River near Tumut
Bobs Dump Tailings Dam	Unnamed watercourse, Howick Coal Mine, Hunter Valley
Boorowa Dam	Boorowa River, Boorowa
Bootawa	Off-stream storage near Taree
Borenore Creek	Borenore Creek near Molong
Brennan's Creek	Brennan's Creek near Appin
Brogo	Brogo River near Bega
Brokers Road Retarding Basin	Cabbage Tree Creek at Wollongong
Brooklyn Retarding Basin	Unnamed watercourse near Brooklyn
Broughtons Pass Weir	Cataract Weir near Wilton
Broula King Gold Mine Tailings	Tyagong Creek, Bumbaldry
Bucklands Retarding Basin	Kooloona Avenue, Figtree, Wollongong
Bulga CHPP	Near Nine Mile Creek, Singleton
Bulga Mine Water	Tributary of Loder Creek, Singleton
Bulga Old Tailings	Broke, Singleton
Bundanoon	Bundanoon Creek near Moss Vale



Burrendong	Macquarie River near Wellington
Burrinjuck	Murrumbidgee River near Yass
Cadia North Waste Dump Detention Basin	Hoare's Creek, Cadia, near Orange
Cadia Southern Tailings Dam	Rodds Creek, Cadia
Cadia Tailings Dam	Rodds Creek near Orange
Cadiangullong Dam	Cadiangullong Creek near Orange
Camberwell Tailings 2	Station Creek, Singleton
Cambewarra	Unnamed watercourse, Cambewarra
Campbelltown Link Area Basin 1	Tributary of Bow Bowing Creek, Campbelltown
Campbelltown North Detention Basin	Off-stream, Campbelltown, Sydney
Captains Flat	Molonglo River at Captains Flat
Carcoar	Belubula River near Carcoar
Cascade No 1	Cascade Creek near Katoomba
Cascade No 2	Cascade Creek near Katoomba
Cascade No 3	Cascade Creek near Katoomba
Cataract	Cataract River near Bulli
Cecil Hills Retarding Basin	Hinchinbrook Creek, Cecil Hills
Cecil Park Basin 3A	Hinchinbrook Creek, Cecil Park
Cecil Park Basin 3B	Hinchinbrook Creek, Cecil Park
Centennial Park Reservoir No 1	Centennial Park, Sydney
Centennial Park Reservoir No 2	Centennial Park, Sydney
Central Garden Detention Basin	Finlaysons Creek, Marylands
Chaffey	Peel River near Tamworth
Chichester	Chichester River near Dungog
Chifley	Campbells River near Bathurst
Chinamans	Sawpit Gully, Young
Clarrie Hall	Doon Doon Creek near Uki
Clear Paddock Creek Basin C	Clear Paddock Creek, Bonnyrigg
Clear Paddock Creek Basin W2	Clear Paddock Creek, Bonnyrigg
Clear Paddock Creek Basin W3	Clear Paddock Creek, Bonnyrigg
Coalcliff	Stanwell Creek near Stanwell Park

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Cochrane	Georges Creek near Bemboka
Colongra Creek Ash	Colongra Creek near Doyalson
Comberton Grange Retarding Basin	Off-stream storage near Nowra
Comin Place Detention Basin	Comin Place, Abbotsbury, Fairfield
Company	Grenfell
Copeton	Gwydir River near Inverell
Cordeaux	Cordeaux River near Wilton
Cowal Gold Mine Reservoir D9	Near Lake Cowal, West Wyalong
Cowal Northern Tailings	Near Lake Cowal, West Wyalong
Cowal Southern Tailings	Near Lake Cowal, West Wyalong
Cowarra	King's Creek Tributary, near Port Macquarie
Cowarra Creek Tailings	Cowarra Creek near Bredbo
Crookwell	Kentgrove Creek near Crookwell
CSA Tailings Dam	Off-stream, near Cobar
CSIRO Retarding Basin	Great Western Highway, Girraween
Cumnock Tailings Storage Facility	Near Bayswater Creek, Ravensworth
Daintree Drive Lower	Frasers Creek, Albion Park
Daintree Drive Upper	Frasers Creek, Albion Park
Danjerra	Danjerra Creek near Nowra
Dapto Heights Retarding Basin	Brooks Creek at Dapto
Dargues Reef Gold Project Tailings	Unnamed watercourse, Braidwood
Dartbrook Mine Water Dam	Unnamed Creek, Muswellbrook
Daruk Park Detention Basin	Daruk Park, Casula, Liverpool
Deep Creek	Off-stream storage near Batemans Bay
Deep Creek Snowy Dam	Deep Creek, Khancoban
Delegate Retarding Basin	Delegate
D.E.P. Retarding Basin	Quarry Road, Prospect
Dover Heights Reservoir	Portland Street, Dover Heights
Drayton In-pit Long Term TSF	Muswellbrook
Drayton In-pit Temporary TSF	Muswellbrook
Drayton Water Supply	Tributary of Bayswater Creek near Muswellbrook

Dumaresq	Dumaresq Creek near Armidale
Dungowan	Dungowan Creek near Nundle
Duralie Coal Auxiliary Dam 1	Tributary of Coal Shaft Creek, Muswellbrook
Duralie Coal Auxiliary Dam No 2	Tributary of Coal Shaft Creek, Muswellbrook
Duralie Coal Mine Water	Cheer Up Gully, Muswellbrook
Edgewood Detention Basin	Hollymount Creek, Woonona
Edgeworth Detention Basin	Cocked Hat Creek, Edgeworth, Wallsend
Edmondson Park Jardine Drive Basin 12	Cabramatta Creek, Edmondson Park
El Klaros	Tributary of Cedar Creek near Maitland
Elura Tailings	Cobar
Emigrant Creek	Emigrant Creek near Ballina
Emma James Basin	Tributary of Erina Creek, East Gosford
Eraring Ash	Crooked Creek near Wangi Wangi
Eraring Attemperating Cooling Water	Dora Creek, Eraring
Eucumbene Dam	Eucumbene River, Eucumbene
Fitzroy Falls	Yarrunga Creek near Moss Vale
Floraville Road Basin	Floraville Road, Belmont North
Foothills Estate 1	Tributary of Towradgi Creek at Wollongong
Foothills Estate Retarding Basin 3	Foothills Estate, Tarrawanna
Foothills Road Retarding Basin	Foothills Road, Mount Ousley
Fountaindale	Fountaindale Creek near Jamberoo
Fox Hills Retarding Basin	Fox Hill Golf Course, Prospect
Freislichs	Homestead Creek, Fowlers Gap
Galambine	Near Mudgee
Gannet Place Retarding Basin	Gannet Avenue, Berkeley
Garden Suburb Detention Basin	Upper branch of Winding Creek, Garden Suburb, Lake Macquarie
Geehi Dam	Geehi River, Kosciusko National Park
George Bass Drive Detention Basin	Off-stream, Batemans Bay
Georgia Terrace Detention Basin	Cattai Creek, Glenhaven
Gingko Sand Overburden Storage Facility	Pooncarrie

Glenbawn	Hunter River near Scone
Glenlee Tailings	Near Menangle Park
Glenmore Park Retarding Basin	Surveyor Creek, Penrith
Glennies Creek	Glennies Creek near Singleton
Glenquarry Cut	Off-stream storage near Moss Vale
Gooden Reserve Retaining Basin	Model Farm Creek, Baulkham Hills
Googong	Queanbeyan River near Queanbeyan
Gosling Creek	Gosling Creek, Orange
Grahamstown	Off-stream storage near Raymond Terrace
Greaves Creek	Greaves Creek near Blackheath
Green Meadows Retarding Basin	Green Meadows Estate, Albion Park Rail
Greenway Drive Retarding Basin 10A-B	Tributary of Cabramatta Creek, Leppington
Gunyah Park Retarding Basin	Dempster Street, West Wollongong
Guthega Dam	Snowy River, Guthega
Hamilton Valley Retention Basin 5A	Hamilton Valley Creek near Albury (Lavington)
Hamilton Valley Retention Basin 5B	Hamilton Valley Creek near Albury
Hillgrove Elanora	Tributary of Bakers Creek, Hillgrove
Hillgrove Tailings Dam No 1	Bakers Creek near Armidale
Hillgrove Tailings Dam No 2	Off-stream, Hillgrove
Honeysuckle Creek	Honeysuckle Creek at Killara
Horningsea Park Detention Basin	Tributary of Cabramatta Creek, Horningsea Park
Howell Close Retarding Basin	McMahons Creek, Newport
Hoxton Park Basin 6	Hinchinbrook Creek, Hoxton Park
Hume	Murray River near Albury-Wodonga
Humphreys Creek	Humphreys Creek near Drake
Humphreys Creek Tailings	Humphreys Creek near Drake
Hungerford Hill Vineyards	First Creek, Pokolbin
Hunter Valley Operations Lake James	Tributary of Hunter River, near Singleton
Imperial Lake	Willa-Willyong Creek near Broken Hill
Island Bend Dam	Snowy River, Island Bend
Jerrara Creek	Jerrara Creek, Kiama

Jindabyne Dam	Snowy River, Jindabyne
Jounama Dam	Tumut River, Talbingo
Junction Reef	Belubula River near Mandurama
Kalingo Dam	Congewai Creek, Ellalong
Kanahooka Retention Basin	Off Mullet Creek near Kanahooka, Wollongong
Kangaroo Pipeline Control Structure	Off-stream storage at Morton National Park near Fitzroy Falls
Karangi	Off-stream storage near Coffs Harbour
Keepit	Namoi River near Gunnedah
Kempfield Tailings Storage Facility	Unnamed creek, Blayney
Kentucky Creek	Kentucky Creek near Uralla
Khancoban Dam	Swampy Plain River, Khancoban
Killara Reservoir	Pacific Highway, Killara
Lake Canobolas	Molong Creek near Orange
Lake Endeavour	Billabong Creek near Parkes
Lake Ettamogah Winter Storage Dam	Nine Mile Creek, Ettamogah, near Albury
Lake Inverell	MacIntyre River, Inverell
Lake Medlow	Wall's Creek near Medlow Bath
Lake Pambulong Detention Basin	Unnamed watercourse, West Wallsend
Lake Parramatta	Hunt's Creek near Parramatta
Lake Rowlands	Coombing Rivulet near Carcoar
Lake Tullimba	Head Station Creek near Armidale
Lemington Mine Tailings	Off-stream Storage near Warkworth
Lemington Mine Tailings Dam No 5	Off-stream, Singleton
Lidcombe Basin No 6	Tributary of Haslams Creek, Lidcombe
Liddell Ash Disposal	Saltwater Creek near Muswellbrook
Liddell Ash Levee	Bayswater Creek, Muswellbrook
Liddell Cooling Water	Gardiners Creek near Muswellbrook
Liddell Water Supply	Tinkers Creek near Muswellbrook
Lithgow No 1	Farmer's Creek near Lithgow
Lithgow No 2	Farmer's Creek near Lithgow

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Lostock	Paterson River near Gresford
Loyalty Road Retarding Basin	Darling Mills Creek near Parramatta
Lyell (Lilyvale)	Cox's River near Hartley
Malpas	Gara River near Armidale
Mangoola Coal Raw Water	Tributary of Sandy Creek, Muswellbrook
Mangoola Pit Water	Wybong, Muswellbrook
Mangoola Start-up Tailings	Wybong, Muswellbrook
Mangrove Creek	Mangrove Creek near Gosford
Manly	Curl Curl Creek near Manly Vale
Mannering Creek Ash	Mannering Creek near Wyee
Mannus Lake	Mannus Creek, Tumbarumba
Mardi	Off-stream storage near Wyong
Maroubra Reservoir	Vanny Place, Maroubra
Marrickville Oval Retarding Basin	Marrickville Park, Marrickville
Maules Creek Mine—MWD2	Maules Creek, Boggabri
Maules Creek Mine—RWD2	Maules Creek, Boggabri
McCoy Park Retarding Basin	Mimosa Avenue, Toongabbie
McKinnon's Gold Project Tailings	Burdekin Resources, Cobar
Medway	Medway River near Berrima
Menindee Storages	Darling River and adjacent lakes near Menindee
Minmi Road Retarding Basin	Minmi Road, Fletcher, Newcastle
Molong Creek	Molong Creek, Molong
Moolarben Creek	Moolarben Creek near Ulan
Mooney Lower Dam	Mooney Mooney Creek near Gosford
Mooney Upper Dam	Mooney Mooney Creek near Gosford
Moores Creek	Moores Creek near Tamworth
Mount View Detention Basin	Lavender Creek, Cessnock
Mt Annan Wetland No 1	Narellan Creek, Camden
Mt Arthur North Environmental Dam	Unnamed watercourse, South Muswellbrook
Mt Arthur Tailings Storage Facility	South Muswellbrook
Mt Owen North Void Tailings	Hebden

Mt Owen Rail Loop Tailings	Hebden
Mt Thorley Abbey Green South Tailings	Mt Thorley, Singleton
Mt Thorley Central Ramp Tailings Dam	Unnamed watercourse, Mt Thorley Mine, Hunter Valley
Mt Thorley North Out of Pit Water	Warkworth, near Singleton
Mt Thorley South Out of Pit Water	Warkworth, near Singleton
Mt Thorley 24 Ministrip	Near Singleton
Muirfield Golf Club Dam	Barclay Road, North Rocks
Muirfield Golf Course Retarding Basin	Muirfield Golf Course at North Rocks
Murray 2 Dam	Khancoban Back Creek, Khancoban
Murrurundi	Off-stream storage at Murrurundi
Nambucca Off-stream Storage	Bowra Creek, Bowraville
Narara Horticultural	Tributary of Narara Creek, Gosford
Narranbulla	Narambulla Creek near Marulan
Nepean	Nepean River near Bargo
Newstan Contingency Tailings	Fassifern, Lake Macquarie
Newstan Southern REA Main Tailings	Fassifern, Lake Macquarie
Nixon	Oakey Creek near Barraba
Norbrik Detention Pond	Tributary of Lalor Creek, Bella Vista
North Parkes Tailings	Cookopie Creek at North Parkes
North Parkes Tailings Dam No 2	Cookopie Creek, North Parkes
North Turramurra Golf Course Dam	Cowan Creek, North Turramurra
Northmead Reserve Retarding Basin	Darling Mills Creek at Northmead
Northparkes E27—Estcourt Tailings	Goonumbla, Parkes
Nyrang Park Retention Basin	Fairy Creek at Keiraville near Wollongong
Oak Flats Reservoir	Off-stream storage near Oak Flats
Oaky River	Oaky River near Armidale
Oberon	Fish River near Oberon
Old Quipolly	Quipolly Creek, Quirindi
Pacific Palms	Unnamed creek, Pacific Palms, Forster
Palmtree Grove Retention Basin	Unnamed watercourse, Palmtree Grove, Umina
Pasminco Broken Hill Site D Tailings	Pasminco Broken Hill Mine, Broken Hill

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Peak Gold Mine Tailings Dam	Off-stream, near Cobar
Pecan Close Retarding Basin	Wingello Creek, Wyoming
Pejar	Wollondilly River near Goulburn
Petrochilos	Off-stream storage, Bonalbo
Pied Piper Playground Detention Basin	Toongabbie Creek, Seven Hills
Pindari	Severn River near Ashford
Pine Trees Detention Basin	Lord Howe Island
Plashett	Saltwater Creek, Jerry's Plains
Port Macquarie	Off-stream storage near Port Macquarie
Port Waratah Fines Disposal Dam	Off-stream, Newcastle
Possum Skin Dam	Tributary of Glennies Creek, Oak Park
Porters Creek	Porters Creek near Milton
Potts Hill Reservoir No 2	Off-stream storage near Lidcombe
Prospect	Prospect Creek, Prospect
Puddledock Creek	Puddledock Creek near Armidale
Quipolly	Quipolly Creek, Quirindi
Ravensworth Mine Inpit Storage	Off-stream storage at Ravensworth
Ravensworth South Tailings	Ravensworth, Muswellbrook
Ravensworth Void 3 Tailings Dam	Unnamed watercourse, Ravensworth
Ravensworth Void 4 East Tailings	Ravensworth, Muswellbrook
Ravensworth Void 5 Ash	Ravensworth, Muswellbrook
Redbank Creek	Redbank Creek near Mudgee
Research Station	Rifle Range Creek at Orange
Rocky Creek	Rocky Creek near Lismore
Rouse Hill Detention Basin 9B	Smalls Creek, Kellyville
Rouse Hill Detention Basin 16	Smalls Creek, Rouse Hill, Sydney
Rouse Hill Infrastructure Retarding Basin No 5	Caddies Creek at Parklea
Rouse Hill Infrastructure Retarding Basin No 9	Smalls Creek at Kellyville
Rouse Hill Infrastructure Retarding Basin No 13	Caddies Creek at Parklea
Rydal	Off-stream storage near Rydal
Rylstone	Cudgegong River near Rylstone



Sawyers Swamp Creek Ash	Sawyers Swamp Creek near Wallerawang
School House Creek Basin	School House Creek near Regentville, Penrith
SE Tailings Dam	Unnamed watercourse, Lemington, Hunter Valley
Seladon Avenue Retention Basin	At Seladon Avenue—Wallsend near Newcastle
Shannon Creek	Shannon Creek, Grafton
Shellcove Estate Dention Basin 1	Watercourse No 1, Shellharbour
Shellharbour City Centre Basin	Tributary of Oakey Creek, Shellharbour
Sierra Place Retarding Basin	Sierra Place, Toongabbie
Smiths Creek Retarding Basin 1	Smiths Creek near Campbelltown
Smiths Creek Retarding Basin 2	Smiths Creek near Campbelltown
Smiths Creek Retarding Basin 3	Smiths Creek near Campbelltown
Snapper Startup Water	Darling River, Pooncarie
Sooley	Sooley Creek near Goulburn
South Bulli Basin 1	Bellambi Creek, Russell Vale
South Bulli Stormwater Dam	Tributary of Bellambi Creek, Russell Vale
Spagnolos Road Detention Basin	Tributary of Coffs Creek, Coffs Harbour
Split Rock	Manilla River near Manilla
Spring Creek	Spring Creek near Orange
St Josephs School Retarding Basin	St Josephs School, Albion Park
Stephens Creek	Stephens Creek near Broken Hill
Steuart McIntyre Dam	Fattorini Creek, Kempsey
Stockton Borehole Tailings	Near Boolaroo
Suma Park	Summerhill Creek near Orange
Talbingo Dam	Tumut River, Talbingo
Tallong Railway	Barbers Creek, Tallong
Tallowa	Shoalhaven River near Nowra
Tantangra Dam	Murrumbidgee River, Tantangra
Tenterfield Creek	Tenterfield Creek near Tenterfield
The Cove	Old Sydney Town near Gosford
Thompsons Creek	Thompsons Creek near Wallerawang
Thornleigh Reservoir	Off-stream storage near Thornleigh

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Tilba	Tilba Creek near Tilba Tilba
Timor	Castlereagh River near Coonabarabran
Tomingley Residue Storage Facility	Near Gundong Creek, Narromine
Tooma Dam	Tooma River, Kosciusko National Park
Toonumbar	Iron Pot Creek near Kyogle
Triako Tailings	Yarra Yarra Creek near Mineral Hill
Tritton Tailings	Near Nyngan
Tumbarumba	Off-stream storage near Tumbarumba
Tumut 2 Dam	Tumut River, Cabramurra
Tumut 3 Inlet Structure	Tumut River, Talbingo
Tumut Paper Mill Fresh Water Dam	Off Sandy Creek, Tumut
Tumut Paper Mill Waste Water Dam	Off Sandy Creek, Tumut
Tumut Pond Dam	Tumut River, Cabramurra
Umberumberka	Umberumberka Creek near Silverton
United Colliery Tailings 2	Redbank Creek, Singleton
Upper Cordeaux No 2	Cordeaux River near Wollongong
Upper Rodds Creek Dam	Rodds Creek, Cadia
Upper Shephards Lane Detention Basin	Coffs Creek, Coffs Harbour
Vales Point Ash No 2	Mannering Creek near Wyee
Valley View Detention Basin	Unnamed watercourse, Cowra
Wallerawang	Cox's River near Wallerawang
Wambo Chitter Dump Water	Near Wollombi Brook, Singleton
Wambo Hunter Pit Tails	Unnamed watercourse, Warkworth via Singleton
Wambo South Water	Tributary of Stony Creek, Singleton
Wambo Tailings Dam	Unnamed watercourse, Warkworth via Singleton
Warkworth Mine Tailings	Off-stream storage near Mount Thorley (Singleton)
Warkworth North Pit Tailings	Near Singleton
Warraderry Street Detention Basin	Grenfell
Warragamba	Warragamba River near Warragamba
Warringah Reservoir	Mills Place, Beacon Hill
Waverley Reservoir—WS133	Waverley, Sydney

Wentworth Falls Lake	Jamieson Creek near Wentworth Falls
Whitford Road Retarding Basin	Whitford Road, Liverpool
Widemere Detention Basin	Prospect Creek, Greystanes
Wilpinjong TD1 East	Wilpinjong Creek, Mudgee
Wilpinjong TD1 West	Wilpinjong Creek, Mudgee
Wilpinjong TD2	Wilpinjong Creek, Mudgee
Winburndale	Winburndale Rivulet near Bathurst
Windamere	Cudgegong River near Mudgee
Winding Creek Retention Basin No 5	Winding Creek at Charlestown near Newcastle
Wingecarribee	Wingecarribee River near Moss Vale
Wollondilly Washery Dam	Unnamed Creek near Nattai
Wollongong High School Detention Basin	Fairy Creek, Wollongong
Wonawinta Tailings	Cobar
Woodford	Woodford Creek near Woodford
Woodlawn Mine Evaporation	Off-stream near Tarago
Woodlawn Mine No 2 Evaporation	Off-stream near Tarago
Woodlawn North Tailings	Off-stream near Tarago
Woodlawn South Tailings	Off-stream near Tarago
Woodlawn West Tailings	Off-stream near Tarago
Woolgoolga	Off-stream storage near Woolgoolga
Woronora	Woronora River near Waterfall
Wyangala	Lachlan River near Cowra
Wyong Road Detention Basin	Tumbi Creek, Wyong Road, Killarney Vale
Yarrowonga Weir	Murray River near Yarrowonga
Yass	Yass River near Yass
Yellow Pinch	Yellow Pinch Creek near Wolumla
Young Retirement Village Basin	Tributary of Big Spring Creek, Young

## **Schedule 2 Provisions relating to the constitution and procedure of**

## **the Committee**

(Section 10)

### **1 (Repealed)**

### **2 Term of office of member**

- (1) A member shall, subject to this Act, be appointed for such term, not exceeding 4 years, as is specified in the instrument of the member's appointment.
- (2) A member shall, if otherwise qualified, be eligible for re-appointment from time to time for such term, not exceeding 4 years, as is specified in the instrument of the member's re-appointment.

### **3 Member holding office under other Acts**

- (1) Where, by or under any Act, provision is made requiring the holder of an office specified therein to devote the whole of the person's time to the duties of the person's office, that provision shall not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration, travelling or subsistence allowance payable to a member under clause 4.
- (2) The office of a member shall not, for the purposes of any Act, be deemed to be an office or place of profit under the Crown.

### **4 Remuneration of and allowances for members**

Each member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

### **5 Appointment of substitutes to act during period of absence of member**

- (1) The Minister may appoint any person to act in the office of a member while the member is absent from the member's office through illness or any other cause, and that person while so acting:
  - (a) shall have and may exercise the functions of the member in whose office the person is appointed to act, and
  - (b) shall be deemed to be the member.
- (2) A member is, for the purposes of subclause (1) of this clause, deemed to be absent from the member's office if there is a vacancy in that office which has not been filled in accordance with clause 8.
- (3) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of a member, and all things done

or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted to be done by that member.

## **6 Deputy chairperson**

- (1) A deputy chairperson of the Committee shall be elected by the members at the first meeting held after 1 January in each year, or whenever there is a vacancy in the office of the deputy chairperson, and the deputy chairperson shall hold office until the first meeting in the year following that in which the deputy chairperson was elected.
- (2) A deputy chairperson is eligible for re-election from time to time.
- (3) Where the chairperson is absent from office through illness or any other cause the deputy chairperson shall act as the chairperson.
- (4) Where a member who is deputy chairperson is absent from office through illness or any other cause the Minister may appoint some other member to act as deputy chairperson during that absence.

## **7 Vacation of office**

- (1) A member shall be deemed to have vacated the office of member:
  - (a) if the member dies,
  - (b) if the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration, allowances or estate for their benefit,
  - (c) if the member is absent from 4 consecutive ordinary meetings of the Committee of which reasonable notice has been given to the member, either personally or in the ordinary course of post, unless on leave granted by the Minister or, unless before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for the member's absence from those meetings,
  - (d) if the member becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the [Mental Health Act 1958](#) or a person under detention under Part 7 of that Act,
  - (e) if he or she is convicted in New South Wales of an indictable 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,
  - (f) if the member resigns the member's office by writing under the member's hand addressed to the Minister,

(g) if the member declines office, or

(h) if the member is removed from office by the Minister.

(i) (Repealed)

(2) The Minister may, for any cause which to the Minister seems sufficient, remove any member from office.

## **8 Filling of casual vacancies**

(1) On the occurrence of a vacancy in the office of a member, the Minister may appoint a person to the vacant office for the balance of the member's predecessor's term of office.

(2) A person appointed under subclause (1) of this clause shall be a person who holds the same qualifications, and is nominated in the same manner, if any, as the member whose office has become vacant was qualified and nominated.

## **9 Quorum**

The number of members which shall constitute a quorum at any meeting of the Committee is 5, of whom one shall be the chairperson or the deputy chairperson.

## **10 Meetings**

(1) Any duly convened meeting of the Committee at which a quorum is present shall be competent to transact any business of the Committee.

(2) Questions arising at a meeting of the Committee shall be determined by a majority of votes of the members present and voting.

(3) The chairperson shall preside at all meetings of the Committee at which the chairperson is present.

(4) If the chairperson is not present at a meeting of the Committee, the deputy chairperson shall preside.

(5) The person presiding at a meeting of the Committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

## **11 Minutes**

The Committee shall cause full and accurate minutes to be kept of its proceedings at meetings, and submit to the Minister a copy of the minutes of each meeting within 14 days after the date on which the meeting is held.

## **12 General procedure**

The procedure for the calling of, and for the conduct of business at, meetings of the

Committee shall, subject to any procedure that is specified in this Act or is prescribed, be as determined by the Committee.

### **13 Protection from liability**

- (1) No matter or thing done, and no contract entered into, by the Committee, and no matter or thing done by a member or by any other person acting under the direction or as delegate of the Committee shall, if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act, subject the member or person personally to any action, liability, claim or demand.
- (2) Nothing in subclause (1) of this clause exempts any member or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of or relating to the Committee and which the member or other person authorised or joined in authorising.

### **14 Presumptions**

In proceedings by or against the Committee no proof shall be required (until evidence is given to the contrary) of:

- (a) the constitution of the Committee,
- (b) any resolution of the Committee,
- (c) the appointment of any member, or
- (d) the presence of a quorum at any meeting of the Committee.