

# Greater Sydney Commission Act 2015 No 57

[2015-57]



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**
  - [Coastal Management Act 2016 No 20](#) (not commenced)
  - [Environmental Planning and Assessment Amendment Act 2017 No 60](#) (not commenced)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Greater Sydney Commission Act 2015 No 57



New South Wales

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

## Part 1 Preliminary

### 1 Name of Act

This Act is the [Greater Sydney Commission Act 2015](#).

### 2 Commencement

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

### 3 Definitions

(1) In this Act:

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

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

**Commission** means the Greater Sydney Commission constituted under Part 2.

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

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

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

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

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

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

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

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

#### 4 Amendment of area comprising Greater Sydney Region

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

## Part 2 Greater Sydney Commission

### Division 1 Constitution of Commission

#### 5 Constitution of Commission

(1) There is constituted by this Act a body corporate with the corporate name of the Greater Sydney Commission.

(2) The Commission is a NSW Government agency.

**Note—**

See section 13A of the *Interpretation Act 1987*.

(3) The Commission is not subject to the control and direction of the Minister (except to the extent specifically provided for in this or any other Act).

#### 6 Members of Commission

(1) The Commission is to consist of the following members:

- (a) 4 persons appointed by the Minister (the **Greater Sydney Commissioners**), each of whom has, in the opinion of the Minister, expertise in at least one of the following areas, namely, environmental sustainability, environmental science, sustainable design, strategic planning, infrastructure planning and delivery, architecture, urban design, traffic and transport, engineering, community development and services, local government, environmental planning law, social justice, property development, community engagement, economics, tourism or heritage,
- (b) each person appointed by the Minister to represent a district declared under section 75AB (b) of the Planning Act as a district in the Greater Sydney Region (the **District Commissioners**), being a person who has, in the opinion of the Minister, expertise in at least one of the following areas, namely, planning, architecture, heritage, the environment, urban design, land economics, traffic and transport,

law, engineering, tourism or government and public administration,

(c) the Secretary of each of the following (the ***ex-officio members***):

(i) the Department of Planning and Environment,

(ii) the Department of Transport,

(iii) the Treasury.

(2) One of the Greater Sydney Commissioners is, by the instrument of the Commissioner's appointment as a member or by a subsequent instrument executed by the Minister, to be appointed as the Chief Commissioner of the Commission.

(3) Of the 3 other Greater Sydney Commissioners:

(a) one is to be appointed by the Minister as the Commissioner with principal responsibility for the activities of the Commission to the extent they relate to environmental matters, and

(b) one is to be appointed by the Minister as the Commissioner with principal responsibility for the activities of the Commission to the extent they relate to social matters, and

(c) one is to be appointed by the Minister as the Commissioner with principal responsibility for the activities of the Commission to the extent they relate to economic matters.

(4) Before appointing a person as a District Commissioner to represent a district in the Greater Sydney Region, the Minister is to seek the advice of the local council of each local government area in that district in relation to the proposed appointment. However, the Minister is not prevented from making an appointment if a local council fails to provide any such advice when requested to do so.

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

## **7 Role of Chief Executive Officer**

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

## **8 Staff of Commission**

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

### **Note—**

Section 59 of the [Government Sector Employment Act 2013](#) provides that the persons so employed (or whose services the Commission makes use of) may be referred to as officers or employees, or members of

staff, of the Commission. Section 47A of the *Constitution Act 1902* precludes the Commission from employing staff.

(2) The Commission may also:

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

## **Division 2 Objectives and functions of Commission**

### **9 Principal objectives of Commission**

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

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

### **10 Functions of Commission**

(1) The Commission has the following functions:

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

- (d) to provide advice to the Minister on the application of any development fund created under section 129 of the Planning Act in respect of land in the Greater Sydney Region,
  - (e) to assist local councils in the Greater Sydney Region and other government agencies (including an agency of the Commonwealth) on the implementation of any plan or proposal relating to development in the Greater Sydney Region,
  - (f) to provide the Minister with such information, advice or reports as the Minister may request,
  - (g) if requested to do so by a Minister other than the Minister administering this Act (the **other Minister**), to provide the other Minister with such information, advice or reports as may be requested by the other Minister.
- (2) Any such other Minister must obtain the approval of the Minister administering this Act before making a request under subsection (1) (g).
- (3) The Commission has such other functions as are conferred or imposed on it by or under this or any other Act.

**Note—**

Those other functions include the power to make local environmental plans under Part 3 of the Planning Act and to prepare draft strategic plans for the Greater Sydney Region under Part 3B of that Act.

- (4) Without limiting subsection (3), the Commission may exercise functions delegated to it under any other Act.

## **11 Delegation of Commission's functions**

- (1) The Commission may delegate to an authorised person or body any of its functions, other than this power of delegation. This power of delegation extends to a function delegated to the Commission, but only if the Commission is authorised in writing by the delegator to delegate the function.
- (2) A delegate may sub-delegate to an authorised person or body any function delegated by the Commission if the delegate is authorised in writing to do so by the Commission.
- (3) In this section, **authorised person or body** means any of the following:
- (a) a member of the Commission,
  - (b) a committee of the Commission or member of such a committee,
  - (c) a Sydney planning panel or member of such a panel,
  - (d) a member of the staff of the Commission (including the Chief Executive Officer),
  - (e) the Secretary or other person employed in the Department of Planning and



Environment,

- (f) a joint regional planning panel constituted under section 23G of the Planning Act,
- (g) the Planning Assessment Commission constituted under section 23B of the Planning Act,
- (h) a local council, or the general manager or other employee of a local council, for any local government area in the Greater Sydney Region,
- (i) a person or body, or a person or body of a class, authorised by the regulations for the purposes of this section.

## **Division 3 Committees**

### **12 Finance and Governance Committee**

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

### **13 Strategic Planning Committee**

- (1) There is established a committee of the Commission to be known as the Strategic Planning Committee (the **SPC**).
- (2) The members of the SPC are as follows:
  - (a) the Greater Sydney Commissioners,
  - (b) the District Commissioners representing the districts of the Greater Sydney Region in respect of which the SPC is exercising its functions.
- (3) The SPC has the following functions:
  - (a) to advise and assist the Commission in connection with such functions of the Commission as may be determined by the Minister,

- (b) if requested to do so by the Commission:
  - (i) to prepare draft strategic plans under Part 3B of the Planning Act for the Greater Sydney Region, and
  - (ii) to provide information, advice and quarterly reports on the implementation of strategic plans for the Greater Sydney Region, and
  - (iii) to advise and assist the Commission in connection with any of the other functions of the Commission.

#### **14 Infrastructure Delivery Committee**

- (1) There is established a committee of the Commission to be known as the Infrastructure Delivery Committee (the **IDC**).
- (2) The members of the IDC are as follows:
  - (a) the Greater Sydney Commissioners,
  - (b) the ex-officio members,
  - (c) the Secretary of the Ministry of Health,
  - (d) the Secretary of the Department of Education.
- (3) The Chief Commissioner may also appoint any one or more District Commissioners as additional casual members of the IDC for the purposes of exercising specific functions of the IDC in relation to a particular matter.
- (4) The IDC has the following functions:
  - (a) to advise and assist the Commission in connection with such functions of the Commission as may be determined by the Minister,
  - (b) if requested to do so by the Commission:
    - (i) to provide information, advice and regular reports on the infrastructure requirements to support housing and employment opportunities in the Greater Sydney Region, and
    - (ii) to advise and assist the Commission in connection with any of the other functions of the Commission.

#### **15 Other committees**

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

Commission.

## **16 Subcommittees**

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

## **17 Procedure for committees and subcommittees**

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

## **Part 3 Sydney planning panels**

### **18 Constitution and functions of Sydney planning panels**

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

#### **Note—**

Development within the area of the City of Sydney is excluded from the classes of development in respect of which a joint regional planning panel may be authorised by an environmental planning instrument to exercise the consent authority functions of a local council—see clause 2 of Schedule 4A to the Planning Act.

- (4) Section 23 (1B) of the Planning Act, in its application to a Sydney planning panel, is taken to be modified to authorise the planning panel to delegate, in accordance with that subsection, any of its functions to the general manager or other employee of a local council for a local government area situated wholly or partly in the part of the Greater Sydney Region for which the panel is constituted. Section 381 of the *Local*

[Government Act 1993](#) does not apply to any such delegation to the general manager or other employee of a local council.

- (5) Subsection (4) does not limit section 23 (1B) of the Planning Act in its application to a Sydney planning panel.
- (6) If a Sydney planning panel is constituted for a part of the Greater Sydney Region, any joint regional planning panel constituted under section 23G (1) of the Planning Act for that part of the Greater Sydney Region is taken to be abolished on the constitution of the Sydney planning panel. The regulations may contain savings and transitional provisions consequent on the abolition of any such joint regional planning panel.
- (7) Schedule 3 contains provisions with respect to Sydney planning panels.

## **Part 4 Miscellaneous**

### **19 Act to bind Crown**

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

### **20 Co-operation by local councils**

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

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

### **21 Annual report to include certain matters**

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

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

### **22 Disclosure of information**

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

- (a) with the consent of the person from whom the information was obtained, or

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

Maximum penalty: 20 penalty units.

### **23 Exclusion of personal liability**

(1) A matter or thing done or omitted to be done by:

- (a) a member of the Commission, or
- (b) a member of a committee of the Commission or a member of a subcommittee of such a committee, or
- (c) a member of staff of the Commission (including the Chief Executive Officer), or
- (d) a person acting under the direction of any person referred to in paragraphs (a)–(c),

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

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

### **24 Nature of proceedings for offences**

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

### **25 Regulations**

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

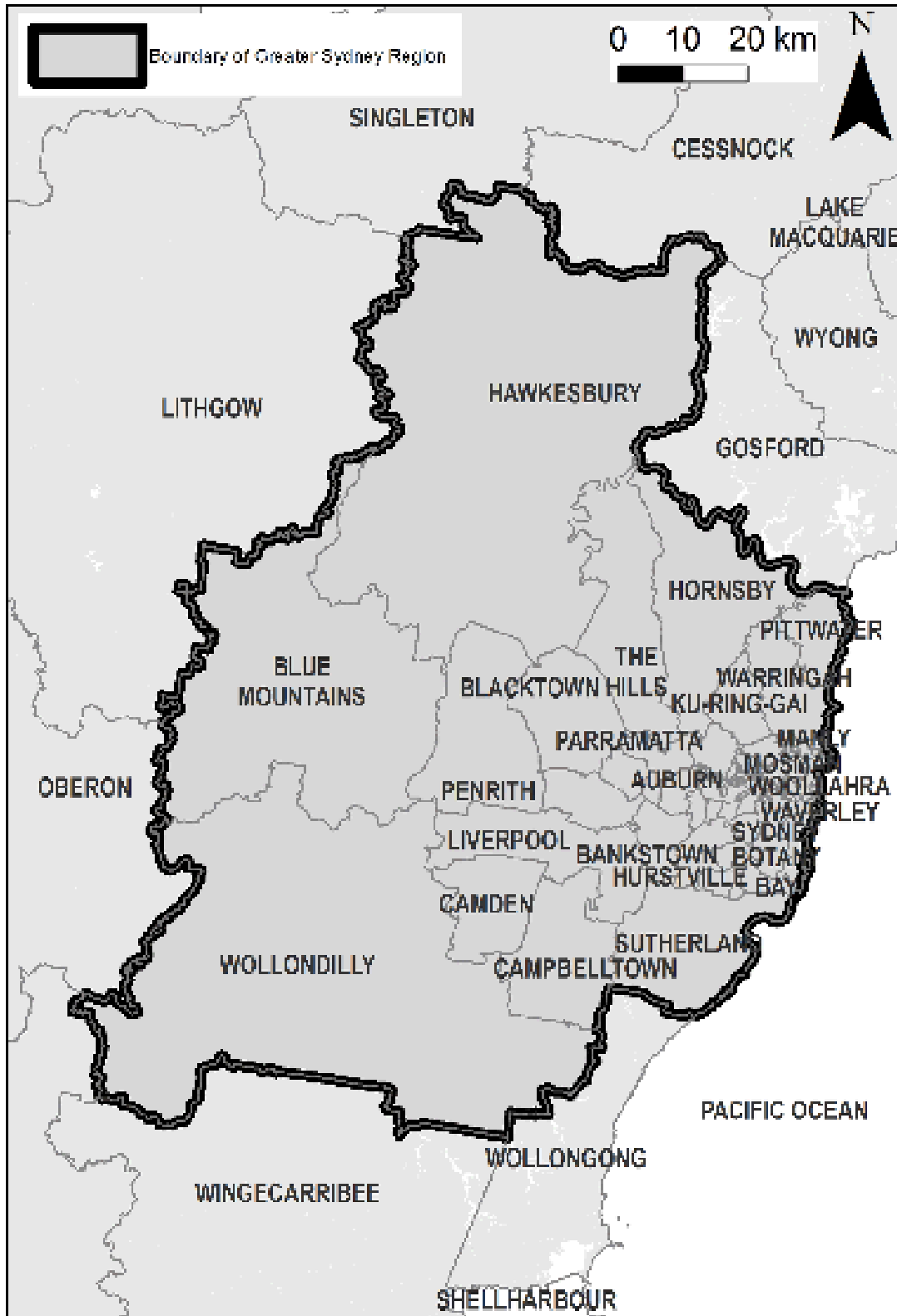
### **26 Review of Act**

(1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

- (2) The review is to be undertaken as soon as possible after the period of 5 years from the commencement of this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

## Schedule 1 Greater Sydney Region

(Sections 3 and 4)



## Schedule 2 Members and procedure of Commission

(Section 6 (5))

### 1 Definitions

In this Schedule:

**appointed member** means a Greater Sydney Commissioner or District Commissioner.

**member** means any member of the Commission.

### 2 Terms of office of appointed members

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

### 3 Basis on which members are appointed

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

### 4 Remuneration of appointed members

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

### 5 Vacancy in office of member

- (1) The office of an appointed member becomes vacant if the member:
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) is removed from office by the Minister under this clause or by the Governor under Part 6 of the [Government Sector Employment Act 2013](#), or
  - (e) is absent from 3 consecutive meetings of the Commission of which reasonable notice has been given to the member personally or by post, except on leave granted by the Minister or unless the member is excused by the Minister for



having been absent from those meetings, or

- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
- (g) becomes a mentally incapacitated person, or
- (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

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

## **6 Filling of vacancy in office of appointed member**

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

## **7 Disclosure of pecuniary interests**

(1) If:

- (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Commission, and
- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Commission.

- (2) A member has a pecuniary interest in a matter if the pecuniary interest is the interest of:

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

which the disclosure relates must not:

- (a) be present during any deliberation of the Commission for the purpose of making the determination, or
- (b) take part in the making by the Commission of the determination.

(8) A contravention of this clause does not invalidate any decision of the Commission.

(9) This clause applies to a member of a committee of the Commission and the committee in the same way as it applies to a member of the Commission and the Commission.

## **8 Effect of certain other Acts**

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

(2) If by or under any Act provision is made:

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

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

## **9 General procedure**

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

## **10 Quorum**

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

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

## **11 Presiding member**

(1) The Chief Commissioner (or, in the absence of the Chief Commissioner, a member

elected by the members who are present at a meeting of the Commission) is to preside at a meeting of the Commission.

- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

## **12 Voting**

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

## **13 Public meetings**

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

## **14 Transaction of business outside meetings or by electronic means**

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

## **15 Minutes of meetings**

- (1) The member presiding at a meeting of the Commission must cause minutes to be kept of the proceedings of the meeting.
- (2) The Chief Executive Officer must cause the minutes of each meeting of the

Commission to be published on an appropriate government website within 3 months of the meeting.

## 16 First meeting

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

## Schedule 3 Sydney planning panels

(Section 18 (7))

### 1 Definitions

In this Schedule:

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

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

**member** means a member of a Sydney planning panel.

### 2 Members of Sydney planning panels

- (1) A Sydney planning panel is to consist of the following 5 members:
  - (a) 3 members appointed by the Minister (the **State members**),
  - (b) 2 nominees of an applicable council (the **council nominees**) who are councillors, members of council staff or other persons nominated by the council.
- (2) The State members of a Sydney planning panel are to be persons who have expertise in at least one area of planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, tourism or government and public administration. In appointing State members, the Minister is to have regard to the need to have a range of expertise represented among the panel's members.
- (3) At least one of the council nominees of a Sydney planning panel is to be a person who has expertise in at least one area of planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism.
- (4) One of the State members of a Sydney planning panel is to be appointed by the Minister as chairperson of the panel. The Minister is required to obtain the concurrence of the Local Government and Shires Association of New South Wales to the appointment 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

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

- (4A) The same person may be appointed as a member (including as the chairperson) of different Sydney planning panels.
- (5) Each applicable council is to nominate 2 persons as council nominees for the purposes of the Sydney planning panel. If an applicable council fails to nominate one or more council nominees, a Sydney planning panel is not required to include 2 council nominees for the purposes of exercising its functions in relation to the area of the council concerned.

### **3 Rotation of council nominees**

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

### **4 (Repealed)**

### **5 Term of office of State members**

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

### **6 Basis of office**

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

### **7 Remuneration**

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

## **8 Deputy chairperson**

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

## **9 Alternates**

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

## **10 Vacancy in office of member**

- (1) The office of a member becomes vacant if the member:
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister or applicable council, as the case requires, or
  - (d) in the case of a council nominee, is removed from office by an applicable council under this clause or by the Minister under subclause (2), or
  - (e) in the case of a State member, is removed from office by the Minister or by the Governor under Part 6 of the *Government Sector Employment Act 2013*, or
  - (f) is absent from 3 consecutive meetings of the Sydney planning panel of which reasonable notice has been given to the member personally or by post, except on leave granted by the panel or unless the member is excused by the planning panel

for having been absent from those meetings, or

- (g) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
- (h) becomes a mentally incapacitated person, or
- (i) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

- (2) The Minister may remove a member from office if the Independent Commission Against Corruption, in a report referred to in section 74C of the *Independent Commission Against Corruption Act 1988*, recommends that consideration be given to the removal of the member from office because of corrupt conduct by the member.
- (3) The Minister may remove a State member from office at any time for any reason and without notice. However, the Minister must provide a written statement of the reasons for removing the member from office and make that statement publicly available.
- (4) An applicable council may remove any of its council nominees from office at any time for any reason and without notice. However, the general manager of the applicable council must provide a written statement of the reasons for removing the council nominee from office and make that statement publicly available.

### **11 Filling of vacancy in office of member**

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

### **12 Chairperson**

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

### **13 Disclosure of pecuniary interests**

- (1) If:
  - (a) a member has a pecuniary interest in a matter being considered or about to be



considered at a meeting of the Sydney planning panel, and

(b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the planning panel.

(2) A member has a pecuniary interest in a matter if the pecuniary interest is the interest of:

(a) the member, or

(b) the member's spouse or de facto partner or a relative of the member, or a partner or employer of the member, or

(c) a company or other body of which the member, or a nominee, partner or employer of the member, is a member.

(3) However, a member is not taken to have a pecuniary interest in a matter as referred to in subclause (2) (b) or (c):

(a) if the member is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or

(b) just because the member is a member of, or is employed by, a council or a statutory body or is employed by the Crown, or

(c) just because the member is a member of, or a delegate of a council, a company or other body that has a pecuniary interest in the matter, so long as the member has no beneficial interest in any shares of the company or body.

(4) A disclosure by a member at a meeting of the Sydney planning panel that the member, or a spouse, de facto partner, relative, partner or employer of the member:

(a) is a member, or is in the employment, of a specified company or other body, or

(b) is a partner, or is in the employment, of a specified person, or

(c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

(5) Particulars of any disclosure made under this clause must be recorded by the Sydney planning panel in a book kept for the purpose and that book must be made available

for inspection by any person at any reasonable time for no charge.

- (6) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Sydney planning panel otherwise determines:
  - (a) be present during any deliberation of the planning panel with respect to the matter, or
  - (b) take part in any decision of the planning panel with respect to the matter.
- (7) For the purposes of the making of a determination by the Sydney planning panel under subclause (6), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
  - (a) be present during any deliberation of the planning panel for the purpose of making the determination, or
  - (b) take part in the making by the planning panel of the determination.
- (8) A contravention of this clause does not invalidate any decision of the Sydney planning panel.

#### **14 Effect of certain other Acts**

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to a member.
- (2) If by or under any Act provision is made:
  - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
  - (b) prohibiting the person from engaging in employment outside the duties of that office,

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

## **Schedule 4 Savings, transitional and other provisions**

### **Part 1 General**

#### **1 Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of

assent to the Act concerned or a later date.

- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

## **Part 2 Provision consequent on [State Revenue and Other Legislation Amendment \(Budget Measures\) Act 2017](#)**

### **2 Replacement of District Commissioners as chairpersons of Sydney planning panels**

- (1) In this clause:

**amending Act** means the [State Revenue and Other Legislation Amendment \(Budget Measures\) Act 2017](#).

- (2) A District Commissioner ceases to be a member of a Sydney planning panel on the appointment by the Minister, after the commencement of the amendments made to Schedule 3 by the amending Act, of a State member as chairperson of the panel.
- (3) A matter pending before the panel on the appointment of the chairperson may continue to be dealt with by the panel with the chairperson as a member and chairperson of the panel instead of the District Commissioner. Anything done by the District Commissioner in relation to that matter before that appointment is taken to have been done by the chairperson.

### **Schedules 5, 6 (Repealed)**