

# City of Sydney Act 1988 No 48

[1988-48]



New South Wales

## Status Information

### Currency of version

Current version for 27 September 2023 to date (accessed 18 December 2024 at 12:54)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Responsible Minister

- Minister for Local Government

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### 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](#).

File last modified 27 September 2023

# City of Sydney Act 1988 No 48



New South Wales

## Contents

|   |   |
|---|---|
| <b>Long title</b> .....   | 5 |
| <b>Part 1 Preliminary</b> .....   | 5 |
| 1 Name of Act .....   | 5 |
| 2 Commencement .....  | 5 |
| 3 Relationship with Principal Act .....                                 | 5 |
| 4 Definitions .....   | 5 |
| 4A (Repealed) .....   | 6 |
| <b>Part 2 (Repealed)</b> .....  | 6 |
| <b>Part 3 Elections</b> .....   | 6 |
| <b>Divisions 1, 2 (Repealed)</b> .....                                  | 6 |
| <b>Division</b> .....   | 6 |
| 23 Election by electors .....   | 6 |
| 23A Lord Mayor must also be candidate for election as councillor .....  | 6 |
| <b>Division 4 (Repealed)</b> .....                                      | 6 |
| <b>Part 4 Planning in the City of Sydney</b> .....                      | 7 |
| <b>Division 1 Preliminary</b> .....                                     | 7 |
| 31 Definitions .....  | 7 |
| 32 Relationship of this Part and other provisions to Planning Act ..... | 7 |

|  |    |
|--|----|
| <b>Division 2 Constitution of the Central Sydney Planning Committee</b> .....                | 7  |
| 33 The Planning Committee .....  | 7  |
| 34 Members of Planning Committee .....   | 8  |
| 35 Provisions relating to members, procedure etc of the Planning Committee .....             | 8  |
| 36 Access to records etc of City Council.....  | 8  |
| 37 Subcommittees.....  | 8  |
| 38 Delegation .....  | 9  |
| <b>Division 3 Environmental planning functions of the Planning Committee</b>                 |    |
| .....  | 9  |
| 39 Planning Committee’s role in planning controls .....                                      | 9  |
| 40 Determination of major development applications.....                                      | 9  |
| 41 Consultation with Minister or public authority .....                                      | 10 |
| 42 Minister or public authority may make representations .....                               | 10 |
| 43 Representations to be taken into consideration .....                                      | 10 |
| 44 Validity of consents .....  | 11 |
| 45 Section 79B of the Planning Act not to apply.....   | 11 |
| <b>Division 4 Other functions</b> .....  | 11 |
| 46 Definition.....   | 11 |
| 47 Nomination of authorisations by applicant.....  | 11 |
| 48 Decision by the Planning Committee as to nomination .....                                 | 11 |
| 49 Decision by the Planning Committee to deal with an authorisation under this Division..... | 12 |
| 50 Determination of matter by the Planning Committee.....                                    | 12 |
| 51 Directions by the Minister.....   | 12 |
| <b>Part 4A (Repealed)</b> .....  | 12 |
| <b>Part 5 Miscellaneous</b> .....  | 13 |
| 52A Amount of ordinary rate for year commencing 1 July 1995 and later years.....             | 13 |
| 53–56 (Repealed) .....   | 13 |
| 57 Savings, transitional and other provisions.....   | 13 |
| 58 Regulations.....  | 13 |
| <b>Part 6 Special environmental planning powers</b> .....                                    | 14 |

|  |           |
|--|-----------|
| 59 Rectification of landscape—uncompleted development .....                                      | 14        |
| 60 Rectification of landscape—agreements with owners.....  | 15        |
| 61 Development contributions .....   | 16        |
| 62 Waiver of tendering requirements—conditional donations to public space improvement projects . | 17        |
| 63 Donations to public space improvement projects.....   | 17        |
| <b>Schedule 1 The Planning Committee</b> .....   | <b>18</b> |
| <b>Schedule 2 (Repealed)</b> .....   | <b>22</b> |
| <b>Schedule 3 Savings, transitional and other provisions</b> .....                               | <b>23</b> |

# City of Sydney Act 1988 No 48



New South Wales

An Act relating to the constitution of the City of Sydney and the City of South Sydney; to make provisions for planning and major development within the City of Sydney; to repeal and amend certain enactments; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *City of Sydney Act 1988*.

### 2 Commencement

- (1) Subject to this section, this Act commences on a day or days to be appointed by proclamation.
- (2) Sections 1 and 2 commence on the date of assent.
- (3) (Repealed)

### 3 Relationship with Principal Act

- (1) The *Local Government Act 1993* is referred to in this Act as the Principal Act.
- (2) This Act, Part 4 and Schedule 1 excepted, shall be construed with, and as if it formed part of, the Principal Act.
- (3) In the event of an inconsistency between this Act and the Principal Act, this Act shall prevail to the extent of the inconsistency.
- (4) (Repealed)

### 4 Definitions

- (1) In this Act—

**City Council** means the Council of the City of Sydney.

**general manager** means the general manager of the City Council.

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

**Planning Committee** means the Central Sydney Planning Committee constituted by this Act.

**Note—**

The *Interpretation Act 1987* contains definitions and other provisions that affect the interpretation and application of this Act.

(2) In this Act—

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

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

**4A (Repealed)**

**Part 2**

**5-13 (Repealed)**

**Part 3 Elections**

**Divisions 1, 2**

**14-22 (Repealed)**

**23 Election by electors**

The Lord Mayor of Sydney is to be elected by the electors in accordance with section 282 (1) of the Principal Act.

**23A Lord Mayor must also be candidate for election as councillor**

A person who is a candidate for election as the Lord Mayor of Sydney must also be a candidate for election as a councillor of the City of Sydney at the same time. Section 283 of the Principal Act applies accordingly.

**Division 4**

**24-30 (Repealed)**

## Part 4 Planning in the City of Sydney

### Division 1 Preliminary

#### 31 Definitions

In this Part—

**major development** means development carried out or proposed to be carried out on land within or partly within the City of Sydney, being—

- (a) development the estimated cost of which exceeds 50 million dollars, or
- (b) development the subject of a development application which, if unconditional consent were to be granted to the application, would not comply with an environmental planning instrument that applies to the land concerned, or
- (c) development the subject of a development application, or development of a specified class, that the Minister administering Part 4 of the Planning Act has requested the Planning Committee to deal with.

**TfNSW** means Transport for NSW constituted under the [Transport Administration Act 1988](#).

#### 32 Relationship of this Part and other provisions to Planning Act

- (1) This Part, section 61 and Schedule 1 are to be construed with, and as if they formed part of, the Planning Act.
- (2) This Act does not affect the application of any provision of the Planning Act except to such extent (if any) as is necessary to give effect to the provisions of this Act.
- (3), (4) (Repealed)

### Division 2 Constitution of the Central Sydney Planning Committee

#### 33 The Planning Committee

- (1) There is constituted by this Act a committee of the City Council to be known as the Central Sydney Planning Committee.
- (2) The Planning Committee has the functions conferred or imposed on it by or under this or any other Act.
- (3) A function exercised by the Planning Committee shall be taken to have been exercised by the City Council.
- (4) The Planning Committee is not subject to the control or direction of the City Council and the City Council has no power to affect (by amendment or revocation or

otherwise) a decision of the Planning Committee.

- (5) Any difference arising between the City Council and the Planning Committee may be dealt with under section 742 of the Principal Act as if it were a difference between councils.
- (6) The Planning Committee is, by virtue of this subsection, a corporation.

### **34 Members of Planning Committee**

- (1) The Planning Committee is to consist of the following 7 members—
  - (a) the Lord Mayor of Sydney,
  - (b) 2 councillors of the City of Sydney elected by the City Council,
  - (c) 4 persons (2 of whom are senior State government employees and 2 of whom are not State or local government employees) appointed by the Minister administering Part 4 of the Planning Act, each having expertise in at least one of architecture, building, civic design, construction, engineering, transport, tourism, the arts, planning or heritage.
- (2) The Minister administering Part 4 of the Planning Act is to obtain the concurrence of the Minister administering the [Public Works Act 1912](#) before appointing a senior State government employee under subsection (1) (c) if the employee is appointed because of his or her expertise in architecture or civic design.
- (3) At least one of the senior State government employees appointed under subsection (1) (c) must be either the Secretary of the Department of Planning and Environment or another Public Service senior executive (within the meaning of the [Government Sector Employment Act 2013](#)) employed in the Department of Planning and Environment.

### **35 Provisions relating to members, procedure etc of the Planning Committee**

Schedule 1 has effect.

### **36 Access to records etc of City Council**

The Planning Committee is entitled—

- (a) to have access to, and to make copies of and take extracts from, records of the City Council relevant to the exercise of its functions, and
- (b) to the use of the staff and facilities of the City Council in order to exercise its functions.

### **37 Subcommittees**

- (1) The Planning Committee may establish subcommittees to assist it in connection with



the exercise of any of its functions.

- (2) It does not matter that any or all of the members of a subcommittee are not members of the Planning Committee.
- (3) The procedure for the calling of meetings of a subcommittee and for the conduct of business at those meetings shall be as determined by the Planning Committee or (subject to any determination of the Planning Committee) by the subcommittee.

### **38 Delegation**

The Planning Committee may, with the approval of the Minister, delegate to a person any of its functions, other than this power of delegation.

## **Division 3 Environmental planning functions of the Planning Committee**

### **39 Planning Committee's role in planning controls**

- (1) The City Council must not prepare a planning proposal or submit a planning proposal to be made unless the Planning Committee has approved of the planning proposal.
- (2) The Planning Committee may require the City Council to prepare a planning proposal, or to submit a planning proposal to be made, to enable the carrying out of non-complying major development the subject of the requirement. The City Council must exercise such of the Council's functions (including functions under the Planning Act) as may be necessary to cause the required planning proposal to be made or approved.
- (3) In this section—

***non-complying major development*** means major development the subject of a development application which, if unconditional consent were to be granted to the application, would not comply with an environmental planning instrument that applies to land to which the application applies.

### **40 Determination of major development applications**

- (1) The Planning Committee has and may exercise the functions of the City Council under Parts 4, 5, 6 and 8 of the Planning Act in relation to the carrying out of major development, to the exclusion of the City Council (subject to any delegation under this section).
- (2) The Planning Committee may delegate to an authorised person or body the exercise of any of the Committee's functions under subsection (1) with respect to a particular application for development consent or with respect to any class of applications for development consent. A delegation can be given subject to conditions. A delegation does not (despite section 38) require the approval of the Minister.

(3) The Planning Committee, or a delegate, must not exercise a function under this section that will result in the making of a decision that will have, or that might reasonably be expected to have, a significantly adverse financial impact on the City Council until after it has consulted with the City Council.

(4) In this section—

**authorised person or body** means the City Council, the general manager, the Chairperson of the Planning Committee, or any subcommittee of the Planning Committee.

#### **41 Consultation with Minister or public authority**

(1) Where an environmental planning instrument which applies to land within the City of Sydney provides that a development application shall not be determined by the granting of consent without the consent, permission, approval or concurrence of a Minister or public authority (other than the City Council or TfNSW) to development specified in the instrument, the Planning Committee shall, in relation to an application to carry out major development, forward forthwith a copy of the application to that Minister or public authority (unless consent to the application is refused).

(2) Where development referred to in subsection (1) is designated development, the Planning Committee shall comply with the provisions of section 79C of the Planning Act and with the provisions of subsection (1) concurrently.

#### **42 Minister or public authority may make representations**

(1) A Minister or public authority (other than TfNSW) referred to in section 41 shall not grant or purport to grant a consent, permission, approval or concurrence so referred to but may, with respect to development the subject of a development application so referred to, make representations to the Planning Committee in relation to—

(a) any matter which would, but for section 41, have been relevant to the granting of the Minister's or authority's consent, permission, approval or concurrence, and

(b) the matters stated pursuant to section 30 (3) of the Planning Act and applicable in relation to the development application.

(2) The exercise or purported exercise of a function by a Minister or public authority in contravention of this section is of no effect.

#### **43 Representations to be taken into consideration**

(1) Without limiting the generality of section 79C of the Planning Act, in determining a development application relating to the carrying out of major development, the Planning Committee shall take into consideration any representations made in relation to the development to which the development application relates in accordance with section 42 by a Minister or public authority within 40 days after a copy of the

application was forwarded to that Minister or public authority.

- (2) Subsection (1) does not prevent the Planning Committee from taking into consideration any such representation made after the expiry of the 40-day period but before the development application is determined.

#### **44 Validity of consents**

The failure of the Planning Committee to comply with sections 41–43 in relation to a development application does not invalidate or otherwise affect a development consent given by the Planning Committee with respect to the development to which the application relates.

#### **45 Section 79B of the Planning Act not to apply**

Section 79B of the Planning Act does not apply to or in respect of major development except in respect of a requirement in an environmental planning instrument that consent not be granted to the development without the consent, permission, approval or concurrence of TfNSW.

### **Division 4 Other functions**

#### **46 Definition**

In this Division—

**authorisation** means—

- (a) a consent, permission, approval, concurrence, licence, permit or other authority of, or
- (b) the exercise of a function by,

a Minister or public authority (not being a court) other than under Division 3 or as prescribed by the regulations.

#### **47 Nomination of authorisations by applicant**

An applicant for consent to carry out major development may nominate, in the development application, any authorisations the applicant requires in order to carry out the development in the manner proposed by the applicant.

#### **48 Decision by the Planning Committee as to nomination**

- (1) On receipt of the application, the Planning Committee shall decide which (if any) of the authorisations the Planning Committee proposes to deal with under this Division.
- (2) The Planning Committee shall notify the applicant as soon as practicable of its decision.

#### **49 Decision by the Planning Committee to deal with an authorisation under this Division**

- (1) If the Planning Committee decides to deal with an authorisation under this Division, the Planning Committee shall—
  - (a) notify the Minister or public authority concerned of its decision,
  - (b) forward a copy of the development application to that Minister or public authority, and
  - (c) require that Minister or public authority to finally determine the matter requiring the authorisation within such time as the Planning Committee may specify having regard to any law (other than this Act) governing the granting of the authorisation or the exercise of the function comprising the authorisation.
- (2) The Planning Committee may, before or after the expiration of the time specified under this section, extend that time from time to time.

#### **50 Determination of matter by the Planning Committee**

- (1) If the Minister or public authority concerned has not finally determined the matter requiring the authorisation within the time (or the extended time) specified by the Planning Committee, the Planning Committee may give notice to that Minister or public authority of the manner in which and the conditions (if any) subject to which the Planning Committee proposes to determine that matter in accordance with this Division.
- (2) If, within 14 days after receipt of a notice under this section, the Minister or public authority concerned has not finally determined the matter, the Planning Committee may determine the matter.
- (3) The Planning Committee shall determine any matter under this section as if it were the Minister or public authority concerned and its determination shall have effect in all respects as if it were a determination of that Minister or public authority.
- (4) The Planning Committee may exercise any function of the Minister or public authority concerned in order to give effect to its determination and the exercise of the function shall have effect in all respects as if it were exercised by that Minister or public authority.

#### **51 Directions by the Minister**

The Minister may at any time direct the Planning Committee not to exercise a function under this Division in relation to such matters (if any) as the Minister may specify.

### **Part 4A**

#### **51A-52 (Repealed)**

## **Part 5 Miscellaneous**

### **52A Amount of ordinary rate for year commencing 1 July 1995 and later years**

- (1) The City Council may resolve that the amount of the ordinary rate that is to be levied on a parcel of rateable land for the year commencing on 1 July 1995 or for any subsequent year is to be not more than a specified percentage higher than the amount of the ordinary rate levied on the same parcel of rateable land for the previous year.
- (2) The specified percentage is to be stated in the City Council's resolution and must be the percentage approved by the Minister for the relevant year. The Minister may approve a nil percentage.
- (3) The City Council must levy the ordinary rate in accordance with its resolution.
- (4) The City Council's resolution does not apply to a parcel of rateable land that did not exist as that parcel of rateable land for the whole of the previous year (because, for example, it was exempt from rating for the whole or a part of that year or it is a lot in a subdivision created during that year).

### **53-56 (Repealed)**

### **57 Savings, transitional and other provisions**

Schedule 3 has effect.

### **58 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, the regulations may make provision for or with respect to the following—
  - (a) the form in which applications under Division 4 of Part 4 may be made,
  - (b) the fees to be lodged with applications,
  - (c) the determination of applications,
  - (d) the recording of determinations,
  - (e) the notification of the making of determinations,
  - (f) the giving of effect to determinations,
  - (g) the public availability of determinations.
  - (h), (i) (Repealed)

## Part 6 Special environmental planning powers

### 59 Rectification of landscape—uncompleted development

- (1) This section applies if the City Council has adopted a local orders policy under Part 3 of Chapter 7 of the Principal Act that specifies the criteria that the City Council must take into consideration in determining whether or not to give an order in accordance with this section.
- (2) Section 164 of the Principal Act does not apply to such a local orders policy.
- (3) The City Council may order the owner or occupier of land to which the *Central Sydney Local Environmental Plan 1996* applies—
  - (a) on which uncompleted development exists, and
  - (b) on which no substantial work to complete the development has been carried out during the period of 18 months (determined consecutively or cumulatively) before the order is given,

to do such things as are specified in the order to rectify the landscape of the land if the development, because of its uncompleted state, adversely affects the visual amenity of the City of Sydney (or a part of the City of Sydney).
- (4) An order may specify only one or more of the following—
  - (a) that the demolition of buildings be completed,
  - (b) that builder's debris and rubble be removed,
  - (c) that a hoarding or other secure fencing be erected,
  - (d) that decorative panels be attached to hoardings and fences,
  - (e) that the land be landscaped,
  - (f) that landscaping items be maintained or, in the case of plants that are dead or damaged, be replaced,
  - (g) that lighting be installed,
  - (h) that such other things of an incidental nature as may be specified in the order be done,
  - (i) that such things as may have been agreed to by the person to whom the order is given be done.
- (5) This section does not authorise the City Council to order the filling-in of an excavation or the installation of drainage works.

- (6) An order under this section is taken to be an order under section 124 of the Principal Act.

**60 Rectification of landscape—agreements with owners**

- (1) The City Council or the Planning Committee may refuse to consider a development application for the development of land to which the *Central Sydney Local Environmental Plan 1996* applies and that is made by or with the consent of the owner of the land unless the owner enters into an agreement with the City Council under which the owner agrees to do such things as may be reasonably required in the agreement in order to rectify the landscape of the land if the development, because of its uncompleted state, adversely affects the visual amenity of the City of Sydney (or a part of the City of Sydney).
- (2) The City Council or the Planning Committee may, in the case of a development application for the development of land to which the *Central Sydney Local Environmental Plan 1996* applies that is made by the owner of the land, impose as a condition of development consent a requirement that the owner enter into an agreement with the City Council under which the owner agrees to do such things as may be reasonably required in the agreement in order to rectify the landscape of the land if the development, because of its uncompleted state, adversely affects the visual amenity of the City of Sydney (or a part of the City of Sydney).
- (3) An agreement must comply with a policy approved by the Minister for the time being administering the Planning Act and adopted by the City Council.
- (4) An agreement may make provision only for one or more of the following—
- (a) that the demolition of buildings be completed,
  - (b) that builder's debris and rubble be removed,
  - (c) that a hoarding or other secure fencing be erected,
  - (d) that decorative panels be attached to hoardings and fences,
  - (e) that the land be landscaped,
  - (f) that landscaping items be maintained or, in the case of plants that are dead or damaged, be replaced,
  - (g) that lighting be installed,
  - (h) that such other things of an incidental nature as may be specified in the agreement be done,
  - (i) that such things as may have been agreed to by the owner of the land be done.

- (5) An agreement cannot require an owner to fill in an excavation or to install drainage works.
- (6) An agreement binds a successor in title to the land.
- (7) This section does not affect the power of the City Council or the Planning Committee to enter into any other agreement concerning the land or its development or to impose any other conditions of development consent.

## **61 Development contributions**

- (1) Despite Part 4 of the Planning Act, a contributions plan prepared and approved under Division 6 of Part 4 of that Act in respect of the whole or any part of the land to which the *Central Sydney Local Environmental Plan 1996* applies may authorise the imposition of a condition that the applicant for development consent pay a levy to the City Council of 1% of the cost, as estimated by the consent authority, of the proposed development.
- (2) Such a contributions plan cannot authorise the imposition of such a levy on so much of a proposed development as comprises residential accommodation (within the meaning of the *Accommodation Levy Act 1997*) within a place of accommodation to which the *Accommodation Levy Act 1997* applies.
- (3) Such a contributions plan must specify the purposes for which any such levy is to be used. Any such levy must be used for the purposes so specified.
- (4) A contributions plan prepared and approved as referred to in this section—
  - (a) is not subject to any direction of the Minister under Division 6 of Part 4 of the Planning Act, and
  - (b) does not have to comply with clause 26 of the *Environmental Planning and Assessment Regulation 1994* (or any clause made in substitution for or by way of replacement of that clause).
- (5) The City Council must not approve a contributions plan that contains a provision authorised by this section unless it has first obtained the concurrence of the Minister administering Part 4 of the Planning Act.
- (6) If the *Central Sydney Local Environmental Plan 1996* is replaced by another environmental planning instrument, this section continues to apply to the land to which that Plan applied immediately before its repeal.
- (7) A condition authorised by this section is not affected by the enactment of the *Environmental Planning and Assessment Amendment (Development Contributions) Act 2005*. However, this section ceases to apply if a contributions plan is prepared and approved under Division 6 of Part 4 of the Planning Act (as amended by that Act) that



authorises the imposition of a levy under section 94A of the Planning Act in relation to the land to which this section applies.

**Note—**

Section 32 (1) provides that this section is to be construed with, and as if it formed part of, the Planning Act.

**62 Waiver of tendering requirements—conditional donations to public space improvement projects**

If—

- (a) a person makes a donation, subject to conditions, to carry out a public space improvement project of the City Council, and
- (b) in order to give effect to such a condition, the City Council enters into a contract with the person or another person to carry out the project, or a part of the project,

section 55 of the Principal Act does not apply to the contract.

**63 Donations to public space improvement projects**

- (1) The City Council must include in any publication that advertises, promotes or disseminates information concerning a public space improvement project a statement to the effect that the acceptance of a donation will not limit or affect the exercise by the City Council of any of its functions, except as provided by section 62.
- (2) The City Council must table a statement at the meeting of the City Council that next follows the making of a donation to a public space improvement project, being a statement that includes the following—
  - (a) the name of the person making the donation,
  - (b) the nature of the donation,
  - (c) any conditions to which the donation was subject.
- (3) The City Council must include in its annual report under section 428 of the Principal Act—
  - (a) a summary of donations made during the year to which the report relates to public space improvement projects, and
  - (b) a list of the public space improvement projects undertaken during that year.

## Schedule 1 The Planning Committee

(Section 35)

### Part 1 Members

#### 1 Definitions

In this Schedule—

**appointed member** means a person referred to in section 34 (1) (c).

**elected member** means a person referred to in section 34 (1) (b).

#### 2 Elected members

- (1) An ordinary election of elected members is to be held—
  - (a) at the same time as the election of the Lord Mayor by the councillors under section 290 (1) (a) of the Principal Act, or
  - (b) at a meeting of the City Council held within 3 weeks of the election of the Lord Mayor by electors of the City of Sydney under section 289 of the Principal Act.
- (2) The office of an elected member commences on the day of the member's election and becomes vacant on the day of the election of the member's successor or on the occurrence of an extraordinary vacancy.
- (3) An extraordinary election of an elected member shall be held as soon as practicable after the extraordinary vacancy occurs.
- (4) An elected member is eligible (if otherwise qualified) for re-election.
- (5) The City Council may remove an elected member (other than a person who has been appointed under subclause (6) and who is not a councillor of the City of Sydney) at any time.
- (6) If a person is not elected in accordance with this clause, the Minister may appoint any person to be an elected member and the person so appointed shall be taken to have been duly elected.
- (7) If a person appointed by the Minister to be an elected member is not a councillor of the City of Sydney, the Minister may remove the person from office at any time.

#### 3 Chairperson

The Lord Mayor of Sydney shall be the Chairperson of the Planning Committee.

### **3A Deputy Chairperson**

- (1) The members of the Planning Committee are to elect a person from among their number to be the Deputy Chairperson of the Planning Committee.
- (2) The person may be elected for the duration of the person's term of office as a member or for a shorter term.

### **4 Alternate members**

- (1) The Lord Mayor of Sydney may appoint a councillor of the City of Sydney who is not an elected member, or the general manager, to be the alternate member for the Lord Mayor.
- (2) The City Council may appoint an alternate for each of the elected members of the Planning Committee.
- (3) The Minister administering Part 4 of the Planning Act may appoint alternates for the appointed members of the Planning Committee and the appointment of any such alternate may specify the circumstances in which the person so appointed is to act as an alternate.
- (4) A person, other than a person appointed under subclause (3), may not be an alternate member for more than one member of the Planning Committee at the same time.
- (5) A person may not act in the office of more than one member of the Planning Committee at the same time.
- (6) An alternate member may only act in the office of the member for whom that alternate member is the alternate member during the illness or absence of the member and while so acting, the alternate member has, subject to clause 14, all the functions of the member and shall be taken to be the member.

### **5 Term of office of appointed member**

Subject to this Schedule, an appointed member shall hold office for such period (not exceeding 5 years) as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

### **6 Remuneration of appointed member or alternate member**

- (1) An appointed member, or alternate, is entitled to be paid from the consolidated fund of the City Council such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member or alternate.
- (2) Remuneration under this clause is not to be paid to an appointed member, or alternate, who is a State government employee.

## **7 Extraordinary vacancy in office of elected member**

An extraordinary vacancy occurs in the office of an elected member if—

- (a) a casual vacancy occurs under the Principal Act in the civic office of the member, or
- (b) the member resigns the office by instrument in writing addressed to the City Council.

## **8 Vacancy in office of appointed member**

(1) The office of an appointed member becomes vacant if the member—

- (a) dies,
- (b) completes a term of office and is not re-appointed,
- (c) resigns the office by instrument in writing addressed to the Minister,
- (d) is removed from office by the Minister under this clause,
- (e) is absent from 4 consecutive meetings of the Planning Committee of which reasonable notice has been given to the member personally or in the ordinary course of post, except 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 having been absent from those meetings,
- (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,
- (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.

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

If the office of an appointed member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

## **10 Disclosure of pecuniary interests**

(1) Chapter 14 (Part 1 excepted) of the Principal Act applies to and in respect of—

- (a) a member of the Planning Committee in the same way as it applies to and in respect of a councillor, and
- (b) a member of a subcommittee of the Planning Committee in the same way as it

applies to and in respect of a member of a council committee, and

(c) a meeting of the Planning Committee in the same way as it applies to and in respect of a meeting of a council, and

(d) a meeting of a subcommittee of the Planning Committee in the same way as it applies to and in respect of a meeting of a council committee.

(2) The Planning Committee shall cause particulars of any disclosure made pursuant to this clause to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to inspection by any person on payment of such fee as may be determined by the Planning Committee from time to time.

### **11 Liability of members etc**

No matter or thing done by the Planning Committee, any member or any person acting under the direction of the Planning Committee shall, if the matter or thing was done in good faith for the purpose of executing this or any other Act, subject the member or person so acting personally to any action, liability, claim or demand.

## **Part 2 Procedure**

### **12 General procedure**

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

### **13 Quorum**

The quorum for a meeting of the Planning Committee is 4 members.

### **14 Presiding member**

(1) The Chairperson of the Planning Committee or, in the absence of the Chairperson, the Deputy Chairperson or, in the absence of both the Chairperson and the Deputy Chairperson, another member elected to chair the meeting by the members present shall preside at a meeting of the Planning Committee.

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

(3) An alternate member for the Chairperson or Deputy Chairperson shall not preside at a meeting of the Planning Committee unless elected in accordance with this clause.

### **15 Voting**

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

### **15A Inclusion of items in agenda for meeting**

Any 2 members of the Planning Committee may notify the Chairperson of a matter or topic to be included in the agenda for a meeting of the Committee and the Chairperson is to ensure that the matter or topic is included in the agenda.

### **16 Application of [Local Government Act 1993](#) to meetings**

The following provisions apply to and in respect of the members of the Planning Committee in the same way as they apply to and in respect of councillors of a council, except in so far as provision is otherwise made by or under this Act—

- (a) Part 1 of Chapter 4 and Division 2 of Part 2 of Chapter 12 of the [Local Government Act 1993](#),
- (b) the regulations made under that Act (but only in so far as those regulations apply to the conduct of council meetings and the conduct of councillors in respect of such meetings).

## **Part 3 General**

### **17 Proof of certain matters not required**

In any legal proceedings, proof is not required (until evidence is given to the contrary) of—

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

### **18 Authentication of documents**

A document requiring authentication by the Planning Committee may be sufficiently authenticated if signed by the Chairperson of the Planning Committee or the general manager.

## **Schedule 2 (Repealed)**

## Schedule 3 Savings, transitional and other provisions

(Section 57)

### Part 1 Preliminary

#### 1 Definitions

In this Schedule—

**Commissioners** means the Commissioners appointed under the *City of Sydney Act 1987*.

**existing employee** means a person who, immediately before the commencement of Part 2 of this Act, was an employee of the City Council.

**transferred employee** means an existing employee who, in accordance with this Act, is transferred to the service of the South Sydney Council.

### Part 2 Staff arrangements

#### 2, 3 (Repealed)

#### 4 Arrangements for the transfer of existing employees

- (1) The Commissioners shall determine, in accordance with any directions of and subject to the approval of the Minister, the arrangements to be made for the transfer of existing employees to the service of the South Sydney Council and for such alterations (if any) to staffing arrangements within the City Council as may, in the opinion of the Commissioners, having regard to those transfers, be necessary or desirable.
- (2) The arrangements (despite any other law, but subject to clauses 5 and 6) may—
  - (a) in relation to existing employees generally—
    - (i) determine amounts of remuneration for specified classes of existing employees, and
    - (ii) authorise the establishment of a voluntary retirement scheme and require the making of payments in accordance with that scheme, and
    - (iii) authorise the making of industrial agreements, and
  - (b) in relation to transferred employees—
    - (i) authorise and require the payment of money by the City Council to the South Sydney Council towards the remuneration and overheads of those employees for such period and in such circumstances as may be determined by the Commissioners or any other specified person, and
    - (ii) authorise and require the payment of money by the City Council to the South

Sydney Council towards the leave and retirement benefits of those employees and provide for the administration of that money pending its payment.

- (3) If the Commissioners do not determine those arrangements to the satisfaction of the Minister by such day as may be specified by the Minister, they may be determined by the Minister.
- (4) The Governor may make a proclamation to take effect on or after the commencement of Part 2 of this Act embodying the arrangements.
- (5) More than one such proclamation may be made.
- (6) Any such proclamation has the force of law.

## **5 Employment, remuneration etc of transferred employees**

- (1) On the commencement of Part 2 of this Act, in accordance with the arrangements determined under clause 4, an existing employee may be transferred to the service of the South Sydney Council and, if so transferred—
  - (a) shall become an employee of that council, and
  - (b) shall be taken to have been appointed and employed by that council under the Principal Act in such office (if any) of that council as may be specified in the arrangements.
- (2) An existing employee so transferred who is not taken, under subclause (1) (b), to have been appointed and employed in a specified office shall, on that commencement and until otherwise directed by the South Sydney Council, continue to perform the duties which attached to the existing employee's employment before that commencement.
- (3) The provisions of section 20C (2)-(4) and (6)-(8) of the Principal Act apply to and in respect of an existing employee transferred under this clause in the same way as those provisions apply to a person transferred under section 20C of the Principal Act.

## **6 Continuation of remuneration and employment**

Each existing employee who is affected by an arrangement under this Act—

- (a) shall, subject to Part 5 of the *Industrial Arbitration Act 1940*, be remunerated by the council in whose service the existing employee is appointed and employed after the commencement of the arrangement on terms not less advantageous than those on which the existing employee was remunerated by the City Council immediately before that commencement, and
- (b) shall not have his or her employment as an employee of that council terminated on the ground of redundancy arising from the operation of this Act.



## **Part 3 Division of assets etc**

### **7 Arrangements for the division of assets etc**

- (1) The Commissioners shall determine, in accordance with any directions of and subject to the approval of the Minister, the arrangements to be made for—
  - (a) the apportionment of assets (including land and interests in land), rights, debts and liabilities of the City Council between it and the South Sydney Council, and
  - (b) the handing over of books, documents, records and papers of the City Council to the South Sydney Council.
- (2) The arrangements shall embody such measures as will facilitate the financial stability of the City of Sydney and the City of South Sydney and for that purpose, in addition to the matters referred to in subclause (1), may (despite any other law)—
  - (a) authorise and require the payment of money by the City Council to or on behalf of the South Sydney Council for such purposes, for such periods and in such circumstances as the Commissioners or any other specified person may decide,
  - (b) authorise and require the City Council to provide (or to assist in the provision of) services within the City of South Sydney either jointly with the South Sydney Council or otherwise for such periods and in such circumstances as the Commissioners or any other specified person may decide,
  - (c) authorise the conduct or provision by the South Sydney Council (under a lease or otherwise and whether in accordance with section 519 of the Principal Act or otherwise) of facilities, undertakings and services of the City Council or within the City of Sydney for such periods and in such circumstances as the Commissioners or any other specified person may decide, and
  - (d) make provision with respect to insurances, including workers' compensation insurance.
- (3) If the Commissioners do not determine those arrangements to the satisfaction of the Minister by such day as may be specified by the Minister, they may be determined by the Minister.
- (4) The Governor may make a proclamation to take effect on or after the commencement of Part 2 of this Act embodying the arrangements.
- (5) More than one such proclamation may be made.
- (6) Any such proclamation has the force of law.
- (7) Nothing in this clause limits or affects section 21 of the Principal Act.

## **8 Vesting of assets etc**

Subject to the terms of a proclamation made under clause 7, the following provisions apply on the day on which the proclamation takes effect in respect of any asset, right, debt or liability to the extent to which it is vested in the South Sydney Council by the proclamation—

- (a) all real and personal property (including any estate or interest in, or right to control or manage, real or personal property) that, immediately before that day, was vested in the City Council vests in the South Sydney Council,
- (b) any money that, immediately before that day, was payable to the City Council becomes payable to the South Sydney Council,
- (c) any liquidated or unliquidated claim that, immediately before that day, was enforceable by the City Council becomes enforceable by the South Sydney Council,
- (d) any liquidated or unliquidated claim that, immediately before that day, was enforceable against the City Council becomes enforceable against the South Sydney Council,
- (e) any proceeding pending immediately before that day at the suit of the City Council becomes a proceeding pending at the suit of the South Sydney Council,
- (f) any proceeding pending immediately before that day against the City Council becomes a proceeding pending against the South Sydney Council,
- (g) any contract, agreement or undertaking entered into with the City Council and in force immediately before that day becomes a contract, agreement or undertaking entered into with the South Sydney Council,
- (h) any security or charge given to or by the City Council and in force immediately before that day becomes a security or charge given to or by the South Sydney Council.

## **Part 4 Making of rates etc**

### **9 (Repealed)**

### **Parts 5, 6**

### **10-21 (Repealed)**

## **Part 7 Miscellaneous**

### **22 Application of statutory instruments**

A statutory instrument that applied to the City of Sydney, as constituted immediately before the commencement of Part 2 of this Act, shall (subject to this Act) continue, on and after that commencement, to apply to the City of Sydney and the City of South Sydney, as

constituted by this Act, until varied, amended or repealed.

### **23, 24 (Repealed)**

### **25 Effect of proclamations under sec 21 (1) of the Principal Act**

- (1) Without limiting section 21 (1) of the Principal Act, a proclamation under that subsection may provide—
  - (a) that specified provisions of the Principal Act or the ordinances made under that Act apply or do not apply to or in relation to any matter or thing authorised or required to be done under this Act, and
  - (b) where specified provisions of that Act or those ordinances are applied under paragraph (a), that they so apply with specified modifications by way of omission from, addition to or partial substitution for those provisions, and
  - (c) whether or not specified provisions of that Act or those ordinances are applied under paragraph (a), that specified provisions additional to those of the Principal Act and the ordinances made under that Act apply to or in relation to any matter or thing authorised or required to be done under this Act.
- (2) A provision of a proclamation referred to in this section may—
  - (a) apply generally or be limited in its application by reference to specified exceptions or factors, or
  - (b) apply differently according to different factors of a specified kind, or
  - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,or may do any combination of those things.

### **26 Draft local environmental plans**

Section 39 applies to a draft local environmental plan in course of preparation by the City Council immediately before the commencement of that section.

### **27 Development applications**

Section 40 applies to a development application for consent to carry out major development which has not been finally determined by the City Council immediately before the commencement of that section.

### **28 Validation**

Anything done or omitted (including anything done or omitted under the Principal Act) before the commencement of a provision of this Act which would have been valid if that provision of this Act had been in force when the thing was done or omitted is validated.

## 29 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts—
  - this Act
  - City of Sydney Amendment Act 1997*
  - Local Government Legislation Amendment (Elections) Act 1998*
  - Environmental Planning Legislation Amendment Act 2006* (but only to the extent that it 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 day.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, 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 8 Provisions consequent on enactment of **City of Sydney Amendment Act 1997**

### 30 Review of amendments

- (1) The Minister is to review the amendments made to this Act by the *City of Sydney Amendment Act 1997* to determine whether the policy objectives of the *City of Sydney Amendment Act 1997* remain valid and whether the terms of the amendments made by that 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 date of assent to the *City of Sydney Amendment Act 1997*.
- (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.

## Part 9 Provision consequent on enactment of **City of Sydney Amendment (Electoral Rolls) Act 2003**

### 31 Electoral rolls prepared before commencement of **City of Sydney Amendment (Electoral**

### **Rolls) Act 2003**

A reference in section 18B to a non-residential roll prepared and confirmed for a previous election extends to a roll prepared and confirmed for an election for the City of Sydney under section 299 or 300 of the Principal Act before the commencement of section 18B.

## **Part 10 Provisions consequent on enactment of [Environmental Planning Legislation Amendment Act 2006](#)**

### **32 Definition**

In this Part—

**amending Act** means the [Environmental Planning Legislation Amendment Act 2006](#).

### **33 Members of Planning Committee**

A person who was a member of the Planning Committee immediately before the substitution of section 34 by the amending Act continues to be a member despite that substitution until such time as the person ceases to be a member in accordance with this Act.

### **34 Concurrence of RailCorp**

Sections 41 (1) and 42 (1), as amended by the amending Act, and section 45, as substituted by that Act, do not apply to or in respect of a development application lodged, but not determined, before the commencement of Schedule 2 to the amending Act and those sections, as in force immediately before that commencement, continue to apply to and in respect of any such application.

## **Part 11 Provision consequent on enactment of [City of Sydney Amendment Act 2023](#)**

### **35 Ordinary election laws to apply to council elections**

- (1) To avoid doubt, on the commencement of the [City of Sydney Amendment Act 2023](#), the [Local Government Act 1993](#) applies to elections for the City Council.
- (2) Subclause (1) does not affect the operation of the Act, Part 3, Division 3.

### **36 Dissolution of Central Sydney Traffic and Transport Committee**

- (1) The Central Sydney Traffic and Transport Committee is dissolved.
- (2) The persons who were members of the Committee immediately before the Committee's dissolution cease to be members.
- (3) No compensation is payable for a loss of office under this clause.

### **37 Sydney Central Business District**

To avoid doubt, the reference in the *Point to Point Transport (Taxis and Hire Vehicles) Regulation 2017* to the Sydney Central Business District within the meaning of this Act is, on the commencement of the *City of Sydney Amendment Act 2023*, taken to be a reference to that term as in force immediately before the commencement.