

Explanatory note

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

Overview of Bill

The object of this Bill is to establish Infrastructure NSW as a government agency for the purposes of:

- (a) securing the efficient, effective, economic and timely planning, co-ordination, selection, funding, implementation, delivery and whole-of-lifecycle asset management of infrastructure that is required for the economic and social well-being of the community, and
- (b) ensuring that decisions about infrastructure projects are informed by expert professional analysis and advice.

Outline of provisions

Part 1 Preliminary

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

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

Clause 3 sets out the objects of the proposed Act.

Clause 4 defines certain words and expressions used in the proposed Act. The expression "major infrastructure project" is defined as an infrastructure project:

- (a) that has a capital investment value of more than \$100 million, or
- (b) that is nominated by the Premier as a special project requiring oversight or co-ordination by Infrastructure NSW.

Part 2 Constitution and management of Infrastructure NSW

Clause 5 constitutes Infrastructure NSW as a body corporate.

Clause 6 makes Infrastructure NSW a NSW Government agency, which has the effect of conferring the status, privileges and immunities of the Crown on Infrastructure NSW.

Clause 7 makes Infrastructure NSW subject to the control and direction of the Premier.

Clause 8 constitutes the Board of Infrastructure NSW and sets out its functions. The Board will consist of the following members:

- (a) the Chairperson (appointed by the Premier),
- (b) not more than 5 persons appointed by the Premier from the private sector who together have skills and experience in infrastructure planning, funding and delivery,
- (c) the Chief Executive Officer and Co-ordinator General,
- (d) the Director-General of the Department of Premier and Cabinet,
- (e) the Secretary of the Treasury,
- (f) the Director-General of the Department of Trade and Investment, Regional Infrastructure and Services,
- (g) the Director-General of the Department of Planning and Infrastructure.

The Board has the function of determining the general policies and strategic direction of Infrastructure NSW and of advising the Premier and the Chief Executive Officer and Co-ordinator General on:

- (a) the strategies, plans and statements under Part 4 of the proposed Act, and
- (b) progress in the delivery of major infrastructure projects identified in those strategies, plans and statements, and
- (c) any other matter relating to infrastructure requested by the Premier or Chief Executive Officer and Co-ordinator General or on its own initiative.

The Board may advise the Premier against any amendment made by the Premier to the strategies, plans and statements submitted by Infrastructure NSW, and make that advice publicly available.

Clause 9 establishes the office of the Chief Executive Officer and Co-ordinator

General, Infrastructure NSW, who is to manage and control the affairs of Infrastructure NSW in accordance with the general policies and strategic direction determined by the Board. Any act, matter or thing done in the name of, or on behalf of Infrastructure NSW by the Chief Executive Officer is taken to have been done by Infrastructure NSW.

Clause 10 provides for the staff of Infrastructure NSW.

Part 3 Functions of Infrastructure NSW

Clause 11 sets out the general and specific functions of Infrastructure NSW, which include the preparation of infrastructure strategies, plans and statements for submission to the Premier, overseeing and monitoring the delivery of major infrastructure projects, reviewing infrastructure proposals by government agencies and the private sector, co-ordinating the State's infrastructure funding submissions and advising the Premier on funding models for infrastructure projects and other matters relating to infrastructure.

Clause 12 enables Infrastructure NSW to accept a delegation of the functions of a government agency relating to the planning, funding, delivery or maintenance of infrastructure.

Clause 13 enables Infrastructure NSW to delegate its functions to a member of the staff of Infrastructure NSW or a person, committee of persons or a person of a class approved by the Premier or prescribed by the regulations.

Clause 14 provides for the exercise of Infrastructure NSW's functions through partnerships, joint ventures or other associations with government agencies or other persons or bodies.

Clause 15 imposes obligations on government agencies in relation to Infrastructure NSW, including to co-operate with, and provide information to, Infrastructure NSW.

Part 4 Infrastructure strategies and planning

Division 1 20-year State infrastructure strategy

Clause 16 requires Infrastructure NSW to prepare and submit to the Premier a 20-year State infrastructure strategy.

Clause 17 sets out the content of the 20-year State infrastructure strategy.

Clause 18 provides that the Premier must consider any 20-year State infrastructure strategy submitted to the Premier and adopt the strategy with or without amendments or refer it back to Infrastructure NSW for further consideration. The strategy is to be made publicly available.

Division 2 5-year infrastructure plans

Clause 19 requires Infrastructure NSW to prepare and submit to the Premier a 5-year major infrastructure projects plan, which is to identify specific major infrastructure projects to be undertaken as a priority in the following 5 years.

Clause 20 sets out the content of a 5-year infrastructure plan.

Clause 21 provides that the Premier must consider any 5-year infrastructure plan submitted to the Premier and adopt the plan with or without amendments or refer it back to Infrastructure NSW for further consideration. The adopted plan must be made publicly available.

Clause 22 provides for Infrastructure NSW to prepare and submit to the Premier other plans at the direction of the Premier.

Division 3 Sectoral State infrastructure strategy statements

Clause 23 requires Infrastructure NSW to prepare and submit to the Premier a sectoral State infrastructure strategy statement for any particular sector or sectors that the Premier considers significant for the State.

Clause 24 sets out the content of a sectoral State infrastructure strategy statement.

Clause 25 provides that the Premier must consider any sectoral State infrastructure strategy statement submitted to the Premier and adopt a statement with or without amendments or refer it back to Infrastructure NSW for further consideration. The adopted statement must be made publicly available.

Division 4 Project implementation plans

Clause 26 provides for the preparation by or at the direction of Infrastructure NSW of project implementation plans for major infrastructure projects identified under this proposed Part in order to facilitate the oversight and monitoring of the delivery of those projects.

Clause 27 sets out the content of a project implementation plan.

Part 5 Step-in powers for delivery of major infrastructure projects

Clause 28 defines certain words and expressions used in the proposed Part and proposed Schedule 2.

Clause 29 confers step-in functions on Infrastructure NSW to carry out major infrastructure projects and to be responsible for projects carried out by other government agencies.

Clause 30 authorises the Premier to make project authorisation orders.

Clause 31 provides that a project authorisation order may authorise Infrastructure NSW to carry out a major infrastructure project specified in the order.

Clause 32 provides that a project authorisation order may, in the case of a major infrastructure project being carried out by another government agency, declare Infrastructure NSW to be responsible for the government agency's functions in relation to the carrying out of the project.

Clause 33 provides for the transfer of assets, rights and liabilities of a government agency to Infrastructure NSW if a project authorisation order is made.

Clause 34 authorises Infrastructure NSW to acquire land for the purpose of a major infrastructure project as authorised by a project authorisation order in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.

Clause 35 authorises the Premier to make a project divesting order to direct that the assets, rights and liabilities of Infrastructure NSW in relation to a major infrastructure project are to be transferred to another government agency.

Clause 36 provides that project authorisation orders and project divesting orders may apply to the whole or a specified part of a major infrastructure project.

Part 6 Miscellaneous

Clause 37 provides that the proposed Act binds the Crown.

Clause 38 requires disclosure of conflicts of interest of members of the Board of Infrastructure NSW or the Chief Executive Officer and Co-ordinator General, and provides for the management of any such conflict of interest.

Clause 39 excludes Infrastructure NSW, the Board of Infrastructure NSW, the Chief Executive Officer and Co-ordinator General or a person acting under their direction from personal liability for an act or omission done in good faith for the purpose of executing the proposed Act.

Clause 40 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 41 provides for the review of the proposed Act in 5 years.

Schedule 1 Members and procedure of Board of Infrastructure NSW

Schedule 1 contains provisions relating to members and procedure of the Board of Infrastructure NSW.

Schedule 2 Transfer of assets, rights and liabilities

Schedule 2 contains provisions relating to the transfer of assets, rights and liabilities in relation to project authorisation orders and project divesting orders.

Schedule 3 Amendment of other Acts

Schedule 3 amends the *Public Finance and Audit Act 1983* to provide for financial auditing and annual reporting by Infrastructure NSW and to make an amendment consequent on the repeal in Schedule 4. **Schedule 3** also amends the *Statutory and Other Offices Remuneration Act 1975* to provide that the remuneration payable to the

Chairperson of the Board of Infrastructure NSW is to be determined by the Statutory and Other Offices Remuneration Tribunal.

Schedule 4 Repeal of Infrastructure Implementation Corporation Act 2005 No 89

Schedule 4 repeals the *Infrastructure Implementation Corporation Act 2005*.