

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

R. E. WARD,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney 3 April, 1974, A.M.*

## New South Wales



ANNO VICESIMO TERTIO

**ELIZABETHÆ II REGINÆ**

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**Act No. , 1974.**

An Act to constitute the New South Wales Planning and Environment Commission and to define its powers, authorities, duties and functions; to dissolve The State Planning Authority of New South Wales; to amend the State Planning Authority Act, 1963, and certain other Acts; and for purposes connected therewith.

BE

*New South Wales Planning and Environment Commission.*

BE it enacted by the Queen's Most Excellent Majesty, by  
and with the advice and consent of the Legislative  
Council and Legislative Assembly of New South Wales in  
Parliament assembled, and by the authority of the same, as  
5 follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the "New South Wales Short title.  
Planning and Environment Commission Act, 1974".

10 2. This Act shall commence upon such day as may be Commence-  
appointed by the Governor in respect thereof and as may be ment.  
notified by proclamation published in the Gazette.

3. This Act is divided as follows :—

Division  
of Act.

PART I.—PRELIMINARY—ss. 1–4.

15 PART II.—CONSTITUTION OF THE NEW SOUTH WALES  
PLANNING AND ENVIRONMENT COMMISSION—ss.  
5–17.

20 PART III.—RESPONSIBILITIES, POWERS, AUTHORITIES,  
DUTIES AND FUNCTIONS OF THE NEW SOUTH  
WALES PLANNING AND ENVIRONMENT COMMISSION  
—ss. 18–21.

PART IV.—AMENDMENT OF CERTAIN ACTS—s. 22.

SCHEDULE.

4. (1) In this Act, except in so far as the context or Interpretation.  
25 subject-matter otherwise indicates or requires—

"appointed day" means the day appointed and notified  
under section 2;

"Authority" means The State Planning Authority of New  
South Wales;

"Chairman"



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- “Chairman” means the person appointed under this Act as Chairman of the Commission;
- 5 “Commission” means the New South Wales Planning and Environment Commission constituted under this Act;
- “commissioner” means a person appointed under this Act as a commissioner;
- “council” has the meaning ascribed thereto in the Local Government Act, 1919;
- 10 “full-time commissioner” means a commissioner appointed on a nomination pursuant to section 6 (2) (a);
- “part-time commissioner” means a commissioner other than a full-time commissioner;
- 15 “regulations” means regulations made under this Act;
- “statutory body” means any body declared under subsection (2) to be a statutory body for the purposes of this Act.

(2) The Governor may, by proclamation in the  
20 Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of the definition of “statutory body” in subsection (1).

**PART II.**

25 **CONSTITUTION OF THE NEW SOUTH WALES PLANNING AND ENVIRONMENT COMMISSION.**

**5.** (1) There is hereby constituted a corporation under the corporate name of the “New South Wales Planning and Environment Commission”. Constitution of Commission.

(2)

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(2) The Commission—

- (a) shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed on it by or under this or any other Act;
- 5 (b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown; and
- (c) shall, in the exercise and performance of its powers, authorities, duties and functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and
- 10 direction of the Minister.

6. (1) The Commission shall consist of five commis- Appointment of commis- sioners.  
sioners appointed by the Governor.

(2) Of the commissioners—

- 15 (a) three shall be appointed on the nomination of the Minister;
- (b) one shall be a serving member of a council nominated by the Minister; and
- (c) one shall be nominated by the Minister to represent
- 20 the interests of the community.

(3) At least one of the full-time commissioners shall possess the qualifications in town and country planning prescribed under the Local Government Act, 1919, or such other qualifications in town and country planning as are

25 acceptable to the Minister.

(4) The holder of an office or place of profit under the Crown shall not be eligible for nomination pursuant to subsection (2) (b) and, if so nominated, shall not be appointed.

30 (5) The nomination of the part-time commissioner referred to in subsection (2) (b) shall be made by the Minister following consultation with the Local Government Association of New South Wales and with the Shires Association of New South Wales.

(6)



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(6) A full-time commissioner shall, subject to this Act, hold office as a member for such term, not exceeding seven years, as may be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for  
5 re-appointment from time to time.

(7) A part-time commissioner shall, subject to this Act, hold office as a commissioner for such term, not exceeding five years, as may be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for  
10 re-appointment from time to time.

(8) The re-appointment of a commissioner shall—

- (a) in the case of a full-time commissioner, be for such term not exceeding seven years; and
- (b) in the case of a part-time commissioner, be for such  
15 term not exceeding five years,

as may be specified in the instrument of his re-appointment.

(9) On the occurrence of a vacancy in the office of a commissioner otherwise than by the expiration of the term for which he was appointed, the Governor may appoint a person  
20 to hold office as a commissioner for the balance, or for part of the balance, of his predecessor's term of office.

(10) A person shall not be appointed as a commissioner if—

- (a) in the case of a full-time commissioner, he is of  
25 or above the age of sixty-five years; or
- (b) in the case of a part-time commissioner, he is of or above the age of seventy years.

(11) The provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment of a commissioner, and a commissioner is not subject to the terms of  
30 that Act during his term of office.

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7. (1) A full-time commissioner shall devote the whole of his time to the duties of his office and shall be paid such annual salary and allowances as the Governor may from time to time determine. Provision relating to commissioners generally.

5 (2) A full-time commissioner shall be appointed as Chairman of the Commission, and, if a Deputy Chairman is appointed, a full-time commissioner shall be appointed to that office.

10 (3) The Deputy Chairman or, if no person is appointed to that office, the commissioner appointed under section 8 (2), shall in the case of the absence through illness or any other cause of the Chairman, act in the place of the Chairman, and while so acting shall be deemed to be the Chairman, and shall have the immunities, powers, authorities, 15 duties and functions of the Chairman.

(4) A part-time commissioner shall be entitled to receive such remuneration (whether by way of fees, allowances, or otherwise) and such travelling and out-of-pocket expenses as may be prescribed.

20 (5) The office of a part-time commissioner shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.

(6) Subsection (1) shall not prevent a commissioner who at any time before the appointed day is a member of the 25 Authority, a member of a statutory body or an officer under the Public Service Act, 1902, from carrying out before the appointed day the duties of his office as such a member or officer.

8. (1) The Minister may appoint a person, other than a 30 commissioner, to act in the office of a full-time commissioner, other than the Chairman, while that full-time commissioner is from time to time absent from that office through illness or any other cause, or, in the case of the Deputy Chairman, while

he

Appoint-  
ment of  
substitutes  
to act  
during  
absence  
of commis-  
sioners.



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he is, pursuant to section 7 (3), acting from time to time in the place of the Chairman, and the person so appointed shall while so acting be deemed to be a full-time commissioner and shall have the immunities, powers, authorities, duties and  
 5 functions of the full-time commissioner in whose office he has been appointed to act.

(2) During any period where no person is appointed to the office, referred to in section 7 (3), of the Deputy Chairman the Minister may appoint a commissioner to act in the  
 10 place of the Chairman.

(3) A person does not, by reason only of his being appointed under subsection (1) to act in the office, referred to in section 7 (3), of the Deputy Chairman, become the Deputy Chairman.

15 (4) A person who is of or above the age of sixty-five years shall not be appointed to act in the office of a full-time commissioner and a person who is of or above the age of seventy years shall not be appointed to act in the office of a part-time commissioner.

20 9. No person shall be concerned to enquire whether or not any occasion has arisen requiring or authorising the Deputy Chairman or a commissioner appointed under section 8 (2) to act in the office of the Chairman or a person, appointed under section 8 (1), to act in the office of any  
 25 commissioner, and all acts and things done or omitted by the Deputy Chairman, that commissioner or that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the Chairman or the commissioner in whose office the person,  
 30 appointed under section 8 (1), was appointed to act.

Substitute  
 commis-  
 sioner's  
 right to  
 act not  
 examinable.

10. (1) A commissioner shall be deemed to have vacated his office—

Casual  
 vacancv.

(a) if he dies;

(b)



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- (b) if, being a full-time commissioner, he engages in any paid employment outside the duties of his office;
- 5 (c) if, being a full-time commissioner, he absents himself from duty for a period exceeding fourteen consecutive days except on leave granted by the Minister (which leave the Minister is hereby authorised to grant), unless his absence is occasioned by illness or other unavoidable cause;
- 10 (d) if, being a part-time commissioner, he is absent from four consecutive meetings of the Commission of which reasonable notice has been given him either personally or in the ordinary course of post, except on leave granted by the Minister (which
- 15 leave the Minister is hereby authorised to grant) before the expiration of four weeks after the last of those meetings;
- 20 (e) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment of his salary, remuneration or allowances as a commissioner, or of his estate, for their benefit;
- 25 (f) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person, within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- 30 (g) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour so punishable;
- 35 (h) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts the resignation;

(i)



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- (i) if, having been appointed by virtue of his being a serving member of a council, he ceases to be a serving member of the council;
- 5 (j) if, at any meeting of the Commission at which he is present and at which any agreement or proposed agreement in which he has a direct or indirect pecuniary interest, or any other matter in which he has such an interest, is the subject of consideration or is included on the agenda for  
10 consideration—
  - (i) he fails, as soon as practicable after the commencement of the meeting, to disclose to the meeting his interest in; or
  - 15 (ii) he takes part in the consideration or discussion of, or votes on any question with respect to,  
the agreement, proposed agreement or other matter;
- (k) if—
  - 20 (i) he has any direct or indirect pecuniary interest in any agreement with the Commission, or in any other matter in which the Commission is concerned, other than an interest in an agreement or other matter which he has in the like manner to that  
25 applicable, and subject to the like conditions applicable, in the case of persons who are not commissioners; or
  - (ii) by virtue of his office as a commissioner, he accepts or acquires any personal profit  
30 or advantage other than under this Act; or
- (l) if he is removed from office by the Governor for misbehaviour or incompetence.

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(2) (a) A full-time commissioner shall be deemed to have vacated his office on the day on which he attains the age of sixty-five years.

5 (b) A part-time commissioner shall be deemed to have vacated his office on the day on which he attains the age of seventy years.

(3) If—

10 (a) a company has a direct or indirect pecuniary interest in any agreement, proposed agreement or other matter the subject of consideration at a meeting of the Commission; or

15 (b) a company has a direct or indirect pecuniary interest in any agreement with the Commission or in any other matter in which the Commission is concerned,

a commissioner who—

20 (c) is a member of the governing body of, or is a substantial shareholder within the meaning of section 69C of the Companies Act, 1961, in, that company shall, for the purposes of subsection (1) (j) and (k), be deemed to have a direct or indirect pecuniary interest in that agreement, proposed agreement or other matter; or

25 (d) has a relevant interest, within the meaning of section 6A of that Act, in any share of the company shall for the purposes of subsection (1) (j) be deemed to have a direct or indirect pecuniary interest in that agreement, proposed agreement or other matter.

30 (4) A commissioner who, at any time before the appointed day, is a member of the Authority or a statutory body, or is an officer under the Public Service Act, 1902, shall not be deemed to have vacated his office as a commissioner by reason only of his engaging, before that day, in paid  
35 employment as a member of the Authority or statutory body or as an officer under the Public Service Act, 1902, as the case may be.



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11. (1) In this section, "superannuation scheme" means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Preservation  
of rights of  
commis-  
sioners  
previously  
public  
servants.

5 (2) Subject to subsection (3) and to the terms of his appointment, where a full-time commissioner was, immediately before his appointment as a commissioner—

- (a) an officer of the Public Service;
- (b) a contributor to a superannuation scheme;
- 10 (c) an officer employed by any statutory body; or
- (d) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

15 (e) shall retain any rights accrued or accruing to him as such an officer, contributor or person;

(f) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as a commissioner; and

20 (g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he had continued to be such an officer, contributor or person during his service as a commissioner, and—

25 (h) his service as a commissioner shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and

30 (i) he shall be deemed to be an officer or employee, and the Commission shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this subsection.

(3)

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(3) A commissioner who, but for this subsection, would be entitled under subsection (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme shall not be so entitled upon his becoming (whether upon his appointment as a commissioner or at any later time while he holds office as a commissioner) a contributor to any other superannuation scheme, and the provisions of subsection (2) (i) cease to apply to or in respect of him and the Commission in any case where he becomes a contributor to such another superannuation scheme.

(4) Subsection (3) does not prevent the payment to a commissioner upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of resignation, to be an officer or employee for the purposes of that scheme.

(5) A commissioner shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

12. (1) In this section—

“officer or employee of a prescribed authority” does not include a commissioner or member of any other statutory body;

“prescribed authority” means the Commission and any other statutory body;

“retiring age” means—

(a) in relation to a person who was, immediately before his appointment as a commissioner, an officer of the Public Service—the age of sixty years; and

(b) in relation to a person who was, immediately before his appointment as a commissioner, an officer or employee of a prescribed authority—the age at which officers or employees,

Commissioner entitled to re-appointment in former employment in certain cases.



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5 employees, as the case may be (being officers or employees of the class to which that person belonged immediately before his appointment as a commissioner), of that prescribed authority are entitled to retire.

(2) A full-time commissioner who ceases to be a commissioner otherwise than pursuant to section 10 (1) (paragraph (h) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately  
10 before his appointment as a commissioner, he was—

- (a) an officer of the Public Service—to some office in the Public Service;
- (b) an officer or employee of a prescribed authority being the Commission—to some office in the service  
15 of the Commission; or
- (c) an officer or employee of some other prescribed authority—to some office in the service of that prescribed authority,

not lower in classification and salary than that which he held  
20 immediately before his appointment as a commissioner.

13. (1) The procedure for the calling of meetings of the Commission and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Commission. Meetings of the Commission.

(2) The Chairman shall preside at all meetings of the  
25 Commission at which he is present.

(3) In the absence of the Chairman, the Deputy Chairman, any person appointed pursuant to section 8 (1) to act in the office of Deputy Chairman and the commissioner appointed under section 8 (2), the other full-time  
30 commissioner may preside at that meeting.

(4)

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(4) Three commissioners, of whom two shall be full-time commissioners, shall form a quorum at any meeting of the Commission and any duly convened meeting of the Commission at which a quorum is present shall be competent to  
5 transact any business of the Commission and shall have and may exercise and perform all the powers, authorities, duties and functions of the Commission.

(5) In the event of an equality of votes at any meeting of the Commission, the person presiding at the meet-  
10 ing shall have, in addition to a deliberative vote, a second or casting vote.

(6) Subject to subsection (5), a decision of a majority of the commissioners present at a meeting of the Commission at which a quorum is present shall be the decision  
15 of the Commission.

(7) The Commission shall cause a record of its decisions and full and accurate minutes of the proceedings at its meetings to be kept and shall submit to the Minister a copy of the minutes of each meeting within fourteen days after the  
20 day on which it was held.

(8) No matter or thing done, and no contract entered into, by the Commission, and no matter or thing done by any commissioner or by any other person acting under the direction or as a delegate of the Commission shall,  
25 if the matter or thing was done, or the contract was entered into, bona fide for the purpose of executing this Act or any other Act conferring or imposing powers, authorities, duties or functions on the Commission, subject the member or person so acting personally to any action, liability, claim or  
30 demand.

(9) Nothing in subsection (8) shall exempt any commissioner or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General, and which that commissioner or other person  
35 authorised or joined in authorising.



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14. (1) The Governor may appoint and employ, under and subject to the Public Service Act, 1902, such officers and employees as may be necessary to enable the Commission to exercise and perform its powers, authorities, duties and functions under this or any other Act, and any such officer or employee shall take office on such day (which may not be before the appointed day) as may be specified in the instrument of his appointment.

Staff  
establish-  
ment of  
Commission  
and  
appointment  
of officers  
and  
employees.

(2) An officer or employee holding office under this section is, in this Act and in any other Act conferring or imposing powers, authorities, duties or functions on the Commission, referred to as an officer or employee or servant of, or as being employed by, the Commission.

(3) For the purpose of exercising and performing the powers, authorities, duties and functions conferred or imposed on the Commission by this or any other Act, the Commission may, with the approval of the Minister of the Department concerned and on such terms as may be arranged, make use of the services of any of the officers or employees of any Government Department.

(4) The Commission may for the like purpose, with the approval of any other public authority or council, make use of the services of any of the officers, servants or employees of that public authority or council, as the case may be.

15. The persons who, immediately before the appointed day, were servants of the Authority shall, on that day, become and be officers or employees, as the case may be, of the Commission pursuant to section 14.

Transfer of  
certain  
employees.

16. (1) In this section, "superannuation scheme" means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Preservation  
of rights of  
transferred  
officers and  
employees.

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*New South Wales Planning and Environment Commission.*

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(2) Subject to subsections (3) and (6) a person who becomes an officer of the Commission under section 15 shall—

- 5 (a) retain any rights and privileges accrued or accruing to him as a servant of the Authority;
- (b) continue to contribute to any superannuation scheme to which he was a contributor immediately before the appointed day; and
- 10 (c) be entitled to receive any deferred or extended leave and any payment, pension or gratuity,  
as if he had continued to be a servant of the Authority during the period he is an officer of the Commission, and—
- 15 (d) his service as an officer of the Commission shall be deemed to be service as an officer for the purpose of any law under which those rights or privileges accrued or were accruing, under which he continues so to contribute or by which that entitlement is conferred; and
- 20 (e) he shall be deemed to be an officer, and the Commission shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this subsection.

(3) An officer of the Commission who, but for this subsection, would be entitled under subsection (2) to  
25 contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme shall not be so entitled upon his becoming, while he is such an officer, a contributor to any other superannuation scheme, and the provisions of subsection (2) (e) cease to apply to or in  
30 respect of him and the Commission in any case where he becomes a contributor to such another superannuation scheme.

(4) Notwithstanding anything in the Superannuation Act, 1916, where, by the operation of section 15, a person becomes an officer of the Commission (being a person who,  
35 immediately before the appointed day, was not a contributor

to,



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to, or entitled or required to contribute to, the Fund established under that Act)—

- 5 (a) that person is a prescribed person for the purposes of Part IV of the Superannuation (Amendment) Act, 1974;
- (b) that person is not, except as such a prescribed person, entitled or required to become a contributor to that Fund;
- 10 (c) the prescribed period for the purposes of that Part is, in relation to that person, the period of three months that next succeeds the appointed day under this Act; and
- 15 (d) that Part shall, for the purposes of this subsection, be deemed to have commenced on the appointed day under this Act.

(5) An officer of the Commission shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

- 20 (6) Where a condition of employment of any officer transferred to the service of the Commission by section 15 was, immediately before the appointed day, regulated by an award or industrial agreement, that condition shall continue to be so regulated until it is varied by an award by which the Commission is bound made by a court of competent juris-
- 25 diction, or that condition is regulated by an industrial agreement to which the Commission is a party.

17. If a commissioner or other person discloses any information obtained in connection with the administration or execution of this Act or of any other Act conferring or  
 30 imposing responsibilities, powers, authorities, duties or functions on the Commission and that disclosure is not made—

- (a) with the consent of the person from whom the information was obtained;
- 35 (b) in connection with the administration or execution of this Act or any such other Act;

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- (c) for the purposes of any legal proceedings arising out of this Act or any such other Act or of any report of any such proceedings; or
  - (d) with other lawful excuse,
- 5 that commissioner or other person is guilty of an offence and, on conviction by a court of summary jurisdiction, liable to a penalty not exceeding \$2,000 or to imprisonment for a term not exceeding six months.

## PART III.

10 RESPONSIBILITIES, POWERS, AUTHORITIES, DUTIES AND  
FUNCTIONS OF THE NEW SOUTH WALES PLANNING  
AND ENVIRONMENT COMMISSION.

18. (1) On the appointed day, the Authority is dissolved and the Department of Environment is abolished.
- 15 (2) On and from the appointed day—
- (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to the Authority shall vest in and belong to the Commission;
  - 20 (b) all money and liquidated and unliquidated claims that, immediately before that day, were payable to or recoverable by the Authority shall be money and liquidated and unliquidated claims payable to or recoverable by the Commission;
  - 25 (c) all proceedings commenced before that day by the Authority and pending immediately before that day shall be deemed to be proceedings pending on that day by the Commission and all proceedings so commenced by any person against the Authority and pending immediately before that day shall be deemed to be proceedings pending on that day by that person against the Commission;
  - 30

Dissolution  
of Authority  
and  
abolition of  
Department  
of Environ-  
ment.

(d)



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- 5 (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the Authority and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Commission;
- 10 (e) the Commission may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subsection and for the prosecution of actions and proceedings so referred to as the Authority might have done but for the enactment of this Act;
- 15 (f) the Commission may enforce and realise any security or charge existing immediately before that day in favour of the Authority and may exercise any powers thereby conferred on the Authority as if the security or charge were a security or charge in favour of the Commission;
- 20 (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, the Authority shall be debts due by, money payable by and claims recoverable against, the Commission; and
- 25 (h) all liquidated and unliquidated claims for which the Authority would, but for the enactment of this Act, have been liable shall be liquidated and unliquidated
- 30 claims for which the Commission shall be liable.

(3) On and from the appointed day, a reference in any other Act or in any regulation, by-law or other statutory instrument or in any other document, whether of the same or of a different kind, to the Authority shall be read and construed  
35 as a reference to the Commission.

(4) Any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of the Authority or an officer of the Authority shall, to the extent

that

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that but for the enactment of this Act that act, matter or thing would on or after that day have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the Commission or an officer  
5 of the Commission, whichever of them is, on or after that day, appropriate in relation to the doing of or omission to do that act, matter or thing.

(5) Any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of the  
10 Department of Environment or an officer of that Department shall, to the extent that but for the enactment of this Act that act, matter or thing would on or after that day have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the State  
15 Pollution Control Commission or an officer of the Commission, whichever of them is, on or after that day, appropriate in relation to the doing of or omission to do that act, matter or thing.

(6) No attornment to the Commission by a lessee  
20 from the Authority shall be required.

19. (1) The sums authorised by the Appropriation Act, 1973, to be appropriated out of the Consolidated Revenue Fund and to be issued and applied for or towards the sub-headings of expenditure under the heading "MINISTER FOR  
25 LOCAL GOVERNMENT" relating to contributions or grants to the Authority, and that would but for this Act have been available for expenditure in connection with the functions of the Authority, shall be deemed, to the extent that, at the appointed day, they have not been so issued or applied, to be  
30 sums authorised by that Act to be appropriated out of that Fund and to be issued and applied for or towards the corresponding subheadings of expenditure in the General Fund of the Commission.

Unexpended funds appropriated for Minister for Environment Control and the Authority.

(2) The sums authorised by the Appropriation Act,  
35 1973, to be appropriated out of the Consolidated Revenue Fund and to be issued and applied for or towards such of the subheadings of expenditure under the heading "MINISTER FOR

ENVIRONMENT



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ENVIRONMENT CONTROL", not related to the administration costs and expenses of the State Pollution Control Commission, and that would but for this Act have been available for expenditure in connection with the functions of the Department of Environment, shall be deemed, to the extent that, at the appointed day, they have not been so issued or applied, to be sums authorised by that Act to be appropriated out of that Fund and to be issued and applied for or towards the corresponding subheadings of expenditure in the General Fund of the State Pollution Control Commission.

20. (1) As soon as practicable after the appointed day, the Commission shall cause an investigation to be made of—

Commission to conduct investigation and report to Minister.

(a) the responsibilities, powers, authorities, duties and functions conferred upon it by or under this or any other Act; and

(b) the law and practice relating to town and country planning, and land use and environmental planning,

and, not later than one year after that day, or such further period as the Governor may determine, shall furnish to the Minister a report of its investigation recommending the organisational, administrative or other changes and adjustments which, in its judgment, are necessary in the public interest for the purpose of improving, restructuring, integrating or co-ordinating the planning of the use of land, and the legislative or other measures it considers necessary to give effect to that recommendation, and to the environmental measures relating thereto.

(2) In so far as any such investigation relates to or affects the responsibilities, powers, authorities, duties and functions of any officer of a Government Department, or of any statutory body whether or not declared under section 4 (2) to be a statutory body for the purposes of this Act, or of a council, that officer, statutory body, or council, as the case may be, shall afford the Commission all such assistance and shall make available to it all such information with respect to his or its responsibilities, powers, authorities, duties and functions as the Commission may require.

(3)

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*New South Wales Planning and Environment Commission.*

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(3) Notwithstanding any other provision in this section, the Minister may appoint any person to make an investigation into, or in connection with, any matter (being a matter to which subsection (1) relates) that is specified  
5 in the instrument of appointment of that person or in any order made by the Minister after any such appointment.

(4) The Commission and the officers of the Commission shall afford a person appointed under subsection (3) all such assistance, and shall make available to him all such  
10 information with respect to its or their responsibilities, powers, authorities, duties and functions, as he may require for the purpose of carrying out any investigation.

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

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**PART IV.**

**AMENDMENT OF CERTAIN ACTS.**

20 **22.** Each Act specified in Column 1 of the Schedule is Amendment  
amended in the manner specified opposite that Act in Column of certain  
2 of the Schedule. Acts.

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**SCHEDULE.**



*New South Wales Planning and Environment Commission.*

## SCHEDULE.

Sec. 22.

## AMENDMENT OF ACTS.

Column 1		Column 2
5	Year and number of Act	Amendment
10	1961, No. 69.. Clean Air Act, 1961	Section 5 (1)— Omit the definition of "Commission", insert instead the following definition:— "Commission" means the State Pollution Control Commission constituted under the State Pollution Control Commission Act, 1970.
15		
20	1970, No. 78.. Clean Waters Act, 1970	Section 5— Omit the definition of "Commission", insert instead the following definition:— "Commission" means the State Pollution Control Commission constituted under the State Pollution Control Commission Act, 1970;
25	1970, No. 22.. Land Develop- ment Contri- bution Management Act, 1970	Section 3 (1)— Omit the definition of "Authority", insert instead the following definition:— "Authority" means the New South Wales Planning and Environ- ment Commission constituted under the New South Wales Planning and Environment Commission Act, 1974;
30		
35	1919, No. 41.. Local Government Act, 1919	Section 342B— Omit the definition of "Authority", insert instead the following definition:— "Authority" means the New South Wales Planning and Environ- ment Commission constituted under the New South Wales Planning and Environment Commission Act, 1974.
40		
45	1970, No. 95.. State Pollution Control Commission Act, 1970	Section 18 (2) (i)— Omit "The State Planning Authority of New South Wales nominated by that Authority", insert instead "the New South Wales Planning and Environ- ment Commission constituted under the New South Wales Planning and Environment Commission Act, 1974".
50		

## SCHEDULE

*New South Wales Planning and Environment Commission.*

## SCHEDULE—continued.

Column 1		Column 2
Year and number of Act	Short title of Act	Amendment
5 1972, No. 38..	Regional Organisation Act, 1972	Section 24 (3)— Omit paragraph (b), insert instead the following paragraph:— (b) the New South Wales Planning and Environment Commission; or.
10		

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974  
[20c]



New South Wales Planning and Environment Commission

BE it enacted by the Queen's Most Excellent Majesty, by  
and with the advice and consent of the Legislative  
Council and Legislative Assembly of New South Wales in  
Parliament assembled, and by the authority of the same, as

PART I

PRELIMINARY

1. This Act may be cited as the New South Wales Planning  
and Environment Commission Act 1974.

2. The Act shall commence upon such day as may be Comman-  
d appointed by the Governor in that and as may be men-  
tioned by proclamation published in the Gazette.

No. , 1974.

# A BILL

To constitute the New South Wales Planning  
and Environment Commission and to define its  
powers, authorities, duties and functions; to  
dissolve The State Planning Authority of New  
South Wales; to amend the State Planning  
Authority Act, 1963, and certain other Acts; and  
for purposes connected therewith.

[SIR CHARLES CUTLER—26 March, 1974.]

BE

*New South Wales Planning and Environment Commission.*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**PART I.****PRELIMINARY.**

1. This Act may be cited as the "New South Wales Short title.  
Planning and Environment Commission Act, 1974".

2. This Act shall commence upon such day as may be Commence-  
appointed by the Governor in respect thereof and as may be ment.  
notified by proclamation published in the Gazette.

3. This Act is divided as follows :—

Division  
of Act.

PART I.—PRELIMINARY—ss. 1-4.

15 PART II.—CONSTITUTION OF THE NEW SOUTH WALES  
PLANNING AND ENVIRONMENT COMMISSION—ss.  
5-17.

20 PART III.—RESPONSIBILITIES, POWERS, AUTHORITIES,  
DUTIES AND FUNCTIONS OF THE NEW SOUTH  
WALES PLANNING AND ENVIRONMENT COMMISSION  
—ss. 18-21.

PART IV.—AMENDMENT OF CERTAIN ACTS—s. 22.

SCHEDULE.

4. (1) In this Act, except in so far as the context or Interpretation.  
25 subject-matter otherwise indicates or requires—

"appointed day" means the day appointed and notified  
under section 2;

"Authority" means The State Planning Authority of New  
South Wales;

"Chairman"



*New South Wales Planning and Environment Commission.*

- “Chairman” means the person appointed under this Act as Chairman of the Commission;
- 5 “Commission” means the New South Wales Planning and Environment Commission constituted under this Act;
- “commissioner” means a person appointed under this Act as a commissioner;
- “council” has the meaning ascribed thereto in the Local Government Act, 1919;
- 10 “full-time commissioner” means a commissioner appointed on a nomination pursuant to section 6 (2) (a);
- “part-time commissioner” means a commissioner other than a full-time commissioner;
- 15 “regulations” means regulations made under this Act;
- “statutory body” means any body declared under subsection (2) to be a statutory body for the purposes of this Act.

(2) The Governor may, by proclamation in the  
20 Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of the definition of “statutory body” in subsection (1).

PART II.

25 CONSTITUTION OF THE NEW SOUTH WALES PLANNING AND ENVIRONMENT COMMISSION.

5. (1) There is hereby constituted a corporation under the corporate name of the “New South Wales Planning and Environment Commission”. Constitution of Commission.

(2)

*New South Wales Planning and Environment Commission.*

(2) The Commission—

- (a) shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed on it by or under this or any other Act;
- 5 (b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown; and
- (c) shall, in the exercise and performance of its powers, authorities, duties and functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and
- 10 direction of the Minister.

6. (1) The Commission shall consist of five commis- Appointment of commis-  
sioners.  
sioners appointed by the Governor.

(2) Of the commissioners—

- 15 (a) three shall be appointed on the nomination of the Minister;
- (b) one shall be a serving member of a council nominated by the Minister; and
- (c) one shall be nominated by the Minister to represent
- 20 the interests of the community.

(3) At least one of the full-time commissioners shall possess the qualifications in town and country planning prescribed under the Local Government Act, 1919.

(4) The holder of an office or place of profit under  
25 the Crown shall not be eligible for nomination pursuant to subsection (2) (b) and, if so nominated, shall not be appointed.

(5) The nomination of the part-time commissioner referred to in subsection (2) (b) shall be made by the  
30 Minister following consultation with the Local Government Association of New South Wales and with the Shires Association of New South Wales.

(6)



*New South Wales Planning and Environment Commission.*

(6) A full-time commissioner shall, subject to this Act, hold office as a member for such term, not exceeding seven years, as may be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for  
5 re-appointment from time to time.

(7) A part-time commissioner shall, subject to this Act, hold office as a commissioner for such term, not exceeding five years, as may be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for  
10 re-appointment from time to time.

(8) The re-appointment of a commissioner shall—

(a) in the case of a full-time commissioner, be for such term not exceeding seven years; and

(b) in the case of a part-time commissioner, be for such  
15 term not exceeding five years,

as may be specified in the instrument of his re-appointment.

(9) On the occurrence of a vacancy in the office of a commissioner otherwise than by the expiration of the term for which he was appointed, the Governor may appoint a person  
20 to hold office as a commissioner for the balance, or for part of the balance, of his predecessor's term of office.

(10) A person shall not be appointed as a commissioner if—

(a) in the case of a full-time commissioner, he is of  
25 or above the age of sixty-five years; or

(b) in the case of a part-time commissioner, he is of or above the age of seventy years.

(11) The provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment of a commissioner, and a commissioner is not subject to the terms of  
30 that Act during his term of office.

*New South Wales Planning and Environment Commission.*

7. (1) A full-time commissioner shall devote the whole of his time to the duties of his office and shall be paid such annual salary and allowances as the Governor may from time to time determine. Provision relating to commissioners generally.
- 5 (2) A full-time commissioner shall be appointed as Chairman of the Commission, and, if a Deputy Chairman is appointed, a full-time commissioner shall be appointed to that office.
- 10 (3) The Deputy Chairman or, if no person is appointed to that office, the commissioner appointed under section 8 (2), shall in the case of the absence through illness or any other cause of the Chairman, act in the place of the Chairman, and while so acting shall be deemed to be the Chairman, and shall have the immunities, powers, authorities, 15 duties and functions of the Chairman.
- (4) A part-time commissioner shall be entitled to receive such remuneration (whether by way of fees, allowances, or otherwise) and such travelling and out-of-pocket expenses as may be prescribed.
- 20 (5) The office of a part-time commissioner shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.
- (6) Subsection (1) shall not prevent a commissioner who at any time before the appointed day is a member of the 25 Authority, a member of a statutory body or an officer under the Public Service Act, 1902, from carrying out before the appointed day the duties of his office as such a member or officer.
- 30 8. (1) The Minister may appoint a person, other than a commissioner, to act in the office of a full-time commissioner, other than the Chairman, while that full-time commissioner is from time to time absent from that office through illness or any other cause, or, in the case of the Deputy Chairman, while Appointment of substitutes to act during absence of commissioners.

he



*New South Wales Planning and Environment Commission.*

he is, pursuant to section 7 (3), acting from time to time in the place of the Chairman, and the person so appointed shall while so acting be deemed to be a full-time commissioner and shall have the immunities, powers, authorities, duties and functions of the full-time commissioner in whose office he has been appointed to act.

(2) During any period where no person is appointed to the office, referred to in section 7 (3), of the Deputy Chairman the Minister may appoint a commissioner to act in the place of the Chairman.

(3) A person does not, by reason only of his being appointed under subsection (1) to act in the office, referred to in section 7 (3), of the Deputy Chairman, become the Deputy Chairman.

(4) A person who is of or above the age of sixty-five years shall not be appointed to act in the office of a full-time commissioner and a person who is of or above the age of seventy years shall not be appointed to act in the office of a part-time commissioner.

9. No person shall be concerned to enquire whether or not any occasion has arisen requiring or authorising the Deputy Chairman or a commissioner appointed under section 8 (2) to act in the office of the Chairman or a person, appointed under section 8 (1), to act in the office of any commissioner, and all acts and things done or omitted by the Deputy Chairman, that commissioner or that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the Chairman or the commissioner in whose office the person, appointed under section 8 (1), was appointed to act.

Substitute commissioner's right to act not examinable.

(1) A commissioner shall be deemed to have vacated his office—

Casual vacancy.

(a) if he dies;

(b)

*New South Wales Planning and Environment Commission.*

- (b) if, being a full-time commissioner, he engages in any paid employment outside the duties of his office;
- 5 (c) if, being a full-time commissioner, he absents himself from duty for a period exceeding fourteen consecutive days except on leave granted by the Minister (which leave the Minister is hereby authorised to grant), unless his absence is occasioned by illness or other unavoidable cause;
- 10 (d) if, being a part-time commissioner, he is absent from four consecutive meetings of the Commission of which reasonable notice has been given him either personally or in the ordinary course of post, except on leave granted by the Minister (which
- 15 leave the Minister is hereby authorised to grant) before the expiration of four weeks after the last of those meetings;
- 20 (e) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment of his salary, remuneration or allowances as a commissioner, or of his estate, for their benefit;
- 25 (f) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person, within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- 30 (g) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour so punishable;
- 35 (h) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts the resignation;

(i)



*New South Wales Planning and Environment Commission.*

- (i) if, having been appointed by virtue of his being a serving member of a council, he ceases to be a serving member of the council;
- 5 (j) if, at any meeting of the Commission at which he is present and at which any agreement or proposed agreement in which he has a direct or indirect pecuniary interest, or any other matter in which he has such an interest, is the subject of consideration or is included on the agenda for  
10 consideration—
  - (i) he fails, as soon as practicable after the commencement of the meeting, to disclose to the meeting his interest in; or
  - 15 (ii) he takes part in the consideration or discussion of, or votes on any question with respect to,  
the agreement, proposed agreement or other matter;
- (k) if—
  - 20 (i) he has any direct or indirect pecuniary interest in any agreement with the Commission, or in any other matter in which the Commission is concerned, other than an interest in an agreement or other matter which he has in the like manner to that  
25 applicable, and subject to the like conditions applicable, in the case of persons who are not commissioners; or
  - (ii) by virtue of his office as a commissioner, he accepts or acquires any personal profit  
30 or advantage other than under this Act; or
- (l) if he is removed from office by the Governor for misbehaviour or incompetence.

*New South Wales Planning and Environment Commission.*

(2) A full-time commissioner shall be deemed to have vacated his office on the day on which he attains the age of sixty-five years.

(3) If—

- 5 (a) a company has a direct or indirect pecuniary interest in any agreement, proposed agreement or other matter the subject of consideration at a meeting of the Commission; or
- 10 (b) a company has a direct or indirect pecuniary interest in any agreement with the Commission or in any other matter in which the Commission is concerned,

a commissioner who—

- 15 (c) is a member of the governing body of, or is a substantial shareholder within the meaning of section 69C of the Companies Act, 1961, in, that company shall, for the purposes of subsection (1) (j) and (k), be deemed to have a direct or indirect pecuniary interest in that agreement,
- 20 proposed agreement or other matter; or
- (d) has a relevant interest, within the meaning of section 6A of that Act, in any share of the company shall for the purposes of subsection (1) (j) be deemed to have a direct or indirect
- 25 pecuniary interest in that agreement, proposed agreement or other matter.

(4) A commissioner who, at any time before the appointed day, is a member of the Authority or a statutory body, or is an officer under the Public Service Act, 1902, shall not be deemed to have vacated his office as a commissioner by reason only of his engaging, before that day, in paid employment as a member of the Authority or statutory body or as an officer under the Public Service Act, 1902, as the case may be.



*New South Wales Planning and Environment Commission.*

11. (1) In this section, "superannuation scheme" means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Preservation  
of rights of  
commis-  
sioners  
previously  
public  
servants.

5 (2) Subject to subsection (3) and to the terms of his appointment, where a full-time commissioner was, immediately before his appointment as a commissioner—

- (a) an officer of the Public Service;
- (b) a contributor to a superannuation scheme;
- 10 (c) an officer employed by any statutory body; or
- (d) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

- 15 (e) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
- (f) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as a commissioner; and
- 20 (g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity, as if he had continued to be such an officer, contributor or person during his service as a commissioner, and—
- 25 (h) his service as a commissioner shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and
- 30 (i) he shall be deemed to be an officer or employee, and the Commission shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this subsection.

(3)

*New South Wales Planning and Environment Commission.*

(3) A commissioner who, but for this subsection, would be entitled under subsection (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme shall not be so entitled upon his becoming (whether upon his appointment as a commissioner or at any later time while he holds office as a commissioner) a contributor to any other superannuation scheme, and the provisions of subsection (2) (i) cease to apply to or in respect of him and the Commission in any case where he becomes a contributor to such another superannuation scheme.

(4) Subsection (3) does not prevent the payment to a commissioner upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of resignation, to be an officer or employee for the purposes of that scheme.

(5) A commissioner shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

12. (1) In this section—

20 “officer or employee of a prescribed authority” does not include a commissioner or member of any other statutory body;

“prescribed authority” means the Commission and any other statutory body;

25 “retiring age” means—

(a) in relation to a person who was, immediately before his appointment as a commissioner, an officer of the Public Service—the age of sixty years; and

30 (b) in relation to a person who was, immediately before his appointment as a commissioner, an officer or employee of a prescribed authority—the age at which officers or employees,

Commissioner entitled to re-appointment in former employment in certain cases.



*New South Wales Planning and Environment Commission.*

5 employees, as the case may be (being officers or employees of the class to which that person belonged immediately before his appointment as a commissioner), of that prescribed authority are entitled to retire.

(2) A full-time commissioner who ceases to be a commissioner otherwise than pursuant to section 10 (1) (paragraph (h) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately  
10 before his appointment as a commissioner, he was—

- (a) an officer of the Public Service—to some office in the Public Service;
- (b) an officer or employee of a prescribed authority being the Commission—to some office in the service  
15 of the Commission; or
- (c) an officer or employee of some other prescribed authority—to some office in the service of that prescribed authority,

not lower in classification and salary than that which he held  
20 immediately before his appointment as a commissioner.

13. (1) The procedure for the calling of meetings of the Commission and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Commission. Meetings of the Commission.

(2) The Chairman shall preside at all meetings of the  
25 Commission at which he is present.

(3) In the absence of the Chairman, the Deputy Chairman, any person appointed pursuant to section 8 (1) to act in the office of Deputy Chairman and the commissioner appointed under section 8 (2), the other full-time  
30 commissioner may preside at that meeting.

(4)

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*New South Wales Planning and Environment Commission.*

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(4) Three commissioners, of whom two shall be full-time commissioners, shall form a quorum at any meeting of the Commission and any duly convened meeting of the Commission at which a quorum is present shall be competent to  
5 transact any business of the Commission and shall have and may exercise and perform all the powers, authorities, duties and functions of the Commission.

(5) In the event of an equality of votes at any meeting of the Commission, the person presiding at the meet-  
10 ing shall have, in addition to a deliberative vote, a second or casting vote.

(6) Subject to subsection (5), a decision of a majority of the commissioners present at a meeting of the Commission at which a quorum is present shall be the decision  
15 of the Commission.

(7) The Commission shall cause a record of its decisions and full and accurate minutes of the proceedings at its meetings to be kept and shall submit to the Minister a copy of the minutes of each meeting within fourteen days after the  
20 day on which it was held.

(8) No matter or thing done, and no contract entered into, by the Commission, and no matter or thing done by any commissioner or by any other person acting under the direction or as a delegate of the Commission shall,  
25 if the matter or thing was done, or the contract was entered into, bona fide for the purpose of executing this Act or any other Act conferring or imposing powers, authorities, duties or functions on the Commission, subject the member or person so acting personally to any action, liability, claim or  
30 demand.

(9) Nothing in subsection (8) shall exempt any commissioner or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General, and which that commissioner or other person  
35 authorised or joined in authorising.



*New South Wales Planning and Environment Commission.*

14. (1) The Governor may appoint and employ, under and subject to the Public Service Act, 1902, such officers and employees as may be necessary to enable the Commission to exercise and perform its powers, authorities, duties and functions under this or any other Act, and any such officer or employee shall take office on such day (which may not be before the appointed day) as may be specified in the instrument of his appointment.

Staff  
establish-  
ment of  
Commission  
and  
appointment  
of officers  
and  
employees.

(2) An officer or employee holding office under this section is, in this Act and in any other Act conferring or imposing powers, authorities, duties or functions on the Commission, referred to as an officer or employee or servant of, or as being employed by, the Commission.

(3) For the purpose of exercising and performing the powers, authorities, duties and functions conferred or imposed on the Commission by this or any other Act, the Commission may, with the approval of the Minister of the Department concerned and on such terms as may be arranged, make use of the services of any of the officers or employees of any Government Department.

(4) The Commission may for the like purpose, with the approval of any other public authority or council, make use of the services of any of the officers, servants or employees of that public authority or council, as the case may be.

15. The persons who, immediately before the appointed day, were servants of the Authority shall, on that day, become and be officers or employees, as the case may be, of the Commission pursuant to section 14.

Transfer of  
certain  
employees.

16. (1) In this section, "superannuation scheme" means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Preservation  
of rights of  
transferred  
officers and  
employees.

(2)

*New South Wales Planning and Environment Commission.*

(2) Subject to subsections (3) and (6) a person who becomes an officer of the Commission under section 15 shall—

- 5 (a) retain any rights and privileges accrued or accruing to him as a servant of the Authority;
  - (b) continue to contribute to any superannuation scheme to which he was a contributor immediately before the appointed day; and
  - 10 (c) be entitled to receive any deferred or extended leave and any payment, pension or gratuity,
- as if he had continued to be a servant of the Authority during the period he is an officer of the Commission, and—
- 15 (d) his service as an officer of the Commission shall be deemed to be service as an officer for the purpose of any law under which those rights or privileges accrued or were accruing, under which he continues so to contribute or by which that entitlement is conferred; and
  - 20 (e) he shall be deemed to be an officer, and the Commission shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this subsection.

(3) An officer of the Commission who, but for this subsection, would be entitled under subsection (2) to  
 25 contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme shall not be so entitled upon his becoming, while he is such an officer, a contributor to any other superannuation scheme, and the provisions of subsection (2) (e) cease to apply to or in  
 30 respect of him and the Commission in any case where he becomes a contributor to such another superannuation scheme.

(4) Subsection (3) does not prevent the payment to an officer of the Commission upon his ceasing to be a contributor to a superannuation scheme of such amount as  
 35 would have been payable to him if he had ceased, by reason of resignation, to be an officer for the purposes of that scheme.

(5)



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*New South Wales Planning and Environment Commission.*

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(5) An officer of the Commission shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

- 5 (6) Where a condition of employment of any officer transferred to the service of the Commission by section 15 was, immediately before the appointed day, regulated by an award or industrial agreement, that condition shall continue to be so regulated until it is varied by an award by which the Commission is bound made by a court of competent jurisdiction, or that condition is regulated by an industrial  
10 agreement to which the Commission is a party.

17. If a commissioner or other person discloses any information obtained in connection with the administration or execution of this Act or of any other Act conferring or  
15 imposing responsibilities, powers, authorities, duties or functions on the Commission and that disclosure is not made—

- (a) with the consent of the person from whom the information was obtained;
- 20 (b) in connection with the administration or execution of this Act or any such other Act;
- (c) for the purposes of any legal proceedings arising out of this Act or any such other Act or of any report of any such proceedings; or
- 25 (d) with other lawful excuse,

that commissioner or other person is guilty of an offence and, on conviction by a court of summary jurisdiction, liable to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding six months.

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*New South Wales Planning and Environment Commission.*

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## PART III.

RESPONSIBILITIES, POWERS, AUTHORITIES, DUTIES AND  
FUNCTIONS OF THE NEW SOUTH WALES PLANNING  
AND ENVIRONMENT COMMISSION.

- 5     **18.** (1) On the appointed day, the Authority is dissolved  
and the Department of Environment is abolished.

Dissolution  
of Authority  
and  
abolition of  
Department  
of  
Environ-  
ment.

(2) On and from the appointed day—

- 10     (a) all real and personal property and all right and  
interest therein and all management and control  
thereof that, immediately before that day, was  
vested in or belonged to the Authority shall vest in  
and belong to the Commission;
- 15     (b) all money and liquidated and unliquidated claims  
that, immediately before that day, were payable to  
or recoverable by the Authority shall be money and  
liquidated and unliquidated claims payable to or  
recoverable by the Commission;
- 20     (c) all proceedings commenced before that day by the  
Authority and pending immediately before that day  
shall be deemed to be proceedings pending on that  
day by the Commission and all proceedings so com-  
menced by any person against the Authority and  
pending immediately before that day shall be  
deemed to be proceedings pending on that day by  
25     that person against the Commission;
- 30     (d) all contracts, agreements, arrangements and under-  
takings entered into with, and all securities lawfully  
given to or by, the Authority and in force imme-  
diately before that day shall be deemed to be con-  
tracts, agreements, arrangements and undertakings  
entered into with and securities given to or by the  
Commission;
- 35     (e) the Commission may, in addition to pursuing any  
other remedies or exercising any other powers that  
may be available to it, pursue the same remedies

for



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*New South Wales Planning and Environment Commission.*

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for the recovery of money and claims referred to in this subsection and for the prosecution of actions and proceedings so referred to as the Authority might have done but for the enactment of this Act;

5 (f) the Commission may enforce and realise any security or charge existing immediately before that day in favour of the Authority and may exercise any powers thereby conferred on the Authority as if the security or charge were a security or charge in  
10 favour of the Commission;

(g) all debts, money and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, the Authority shall be debts due by, money payable by  
15 and claims recoverable against, the Commission; and

(h) all liquidated and unliquidated claims for which the Authority would, but for the enactment of this Act, have been liable shall be liquidated and unliquidated  
20 claims for which the Commission shall be liable.

(3) On and from the appointed day, a reference in any other Act or in any regulation, by-law or other statutory instrument or in any other document, whether of the same or of a different kind, to the Authority shall be read and construed  
25 as a reference to the Commission.

(4) Any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of the Authority or an officer of the Authority shall, to the extent that but for the enactment of this Act that act, matter or thing  
30 would on or after that day have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the Commission or an officer of the Commission, whichever of them is, on or after that day, appropriate in relation to the doing of or omission to do that  
35 act, matter or thing.



*New South Wales Planning and Environment Commission.*

(5) Any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of the Department of Environment or an officer of that Department shall, to the extent that but for the enactment of this Act that act, matter or thing would on or after that day have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the State Pollution Control Commission or an officer of the Commission, whichever of them is, on or after that day, appropriate in relation to the doing of or omission to do that act, matter or thing.

(6) No attornment to the Commission by a lessee from the Authority shall be required.

19. (1) The sums authorised by the Appropriation Act, 1973, to be appropriated out of the Consolidated Revenue Fund and to be issued and applied for or towards the subheadings of expenditure under the heading "MINISTER FOR LOCAL GOVERNMENT" relating to contributions or grants to the Authority, and that would but for this Act have been available for expenditure in connection with the functions of the Authority, shall be deemed, to the extent that, at the appointed day, they have not been so issued or applied, to be sums authorised by that Act to be appropriated out of that Fund and to be issued and applied for or towards the corresponding subheadings of expenditure in the General Fund of the Commission.

Unexpended funds appropriated for Minister for Environment Control and the Authority.

(2) The sums authorised by the Appropriation Act, 1973, to be appropriated out of the Consolidated Revenue Fund and to be issued and applied for or towards such of the subheadings of expenditure under the heading "MINISTER FOR ENVIRONMENT CONTROL", not related to the administration costs and expenses of the State Pollution Control Commission, and that would but for this Act have been available for expenditure in connection with the functions of the Department of Environment, shall be deemed, to the extent that, at the appointed day, they have not been so issued or applied,

to



*New South Wales Planning and Environment Commission.*

to be sums authorised by that Act to be appropriated out of that Fund and to be issued and applied for or towards the corresponding subheadings of expenditure in the General Fund of the State Pollution Control Commission.

- 5     **20.** (1) As soon as practicable after the appointed day, the Commission shall cause an investigation to be made of—
- (a) the responsibilities, powers, authorities, duties and functions conferred upon it by or under this or any other Act; and

Commission  
to conduct  
investiga-  
tion and  
report to  
Minister.

- 10     (b) the law and practice relating to town and country planning, and land use and environmental planning,

and, not later than one year after that day, or such further period as the Governor may determine, shall furnish to the Minister a report of its investigation recommending the

15     organisational, administrative or other changes and adjustments which, in its judgment, are necessary in the public interest for the purpose of improving, restructuring, integrating or co-ordinating the planning of the use of land, and the legislative or other measures it considers necessary to give

20     effect to that recommendation, and to the environmental measures relating thereto.

- (2) In so far as any such investigation relates to or affects the responsibilities, powers, authorities, duties and functions of any officer of a Government Department, or of
- 25     any statutory body whether or not declared under section 4 (2) to be a statutory body for the purposes of this Act, or of a council, that officer, statutory body, or council, as the case may be, shall afford the Commission all such assistance and shall make available to it all such information
- 30     with respect to his or its responsibilities, powers, authorities, duties and functions as the Commission may require.

(3) Notwithstanding any other provision in this section, the Minister may appoint any person to make an investigation into, or in connection with, any matter (being

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*New South Wales Planning and Environment Commission.*

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a matter to which subsection (1) relates) that is specified in the instrument of appointment of that person or in any order made by the Minister after any such appointment.

- (4) The Commission and the officers of the Commission shall afford a person appointed under subsection (3) all such assistance, and shall make available to him all such information with respect to its or their responsibilities, powers, authorities, duties and functions, as he may require for the purpose of carrying out any investigation.
- 10 21. The Governor may make regulations, not inconsistent **Regulations.** with this Act, for or with respect to any matter which by this Act is required or permitted to be prescribed or which is necessary or convenient to be prescribed for the carrying out or giving effect to this Act.

15 **PART IV.**

**AMENDMENT OF CERTAIN ACTS.**

22. Each Act specified in Column 1 of the Schedule is **Amendment** amended in the manner specified opposite that Act in Column **of certain** 2 of the Schedule. **Acts.**

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**SCHEDULE.**



*New South Wales Planning and Environment Commission.*

## SCHEDULE.

Sec. 22.

## AMENDMENT OF ACTS.

Column 1		Column 2
5	Year and number of Act	Short title of Act
10		Amendment
10	1961, No. 69..	Clean Air Act, 1961
15		Section 5 (1)— Omit the definition of "Commission", insert instead the following definition:— "Commission" means the State Pollution Control Commission constituted under the State Pollution Control Commission Act, 1970.
20	1970, No. 78..	Clean Waters Act, 1970
25		Section 5— Omit the definition of "Commission", insert instead the following definition:— "Commission" means the State Pollution Control Commission constituted under the State Pollution Control Commission Act, 1970;
30	1970, No. 22..	Land Development Contribution Management Act, 1970
35		Section 3 (1)— Omit the definition of "Authority", insert instead the following definition:— "Authority" means the New South Wales Planning and Environment Commission constituted under the New South Wales Planning and Environment Commission Act, 1974;
40	1919, No. 41..	Local Government Act, 1919
45		Section 342B— Omit the definition of "Authority", insert instead the following definition:— "Authority" means the New South Wales Planning and Environment Commission constituted under the New South Wales Planning and Environment Commission Act, 1974.
50	1970, No. 95..	State Pollution Control Commission Act, 1970
		Section 18 (2) (I)— Omit "The State Planning Authority of New South Wales nominated by that Authority", insert instead "the New South Wales Planning and Environment Commission constituted under the New South Wales Planning and Environment Commission Act, 1974".

## SCHEDULE

*New South Wales Planning and Environment Commission.*

## SCHEDULE—continued.

Column 1		Column 2
Year and number of Act	Short title of Act	Amendment
5 10 1972, No. 38..	Regional Organisation Act, 1972	Section 24 (3)— Omit paragraph (b), insert instead the following paragraph:— (b) the New South Wales Planning and Environment Commission; or.

## BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974

[20c]



## NEW SOUTH WALES PLANNING AND ENVIRONMENT COMMISSION BILL, 1974

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### EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to constitute a corporate body under the name of the New South Wales Planning and Environment Commission (hereinafter called "the Commission");
- (b) to provide that the Commission shall consist of five commissioners three of whom shall be full-time commissioners and two of whom shall be part-time commissioners;
- (c) to state the circumstances in which a commissioner vacates his office;
- (d) to make provision with respect to meetings of the Commission;
- (e) to dissolve The State Planning Authority of New South Wales, abolish the Department of Environment, provide for the vesting of certain property of that Authority in the Commission and provide for the exercise by the Commission of the powers of that Authority;
- (f) to provide in clause 19 for the expenditure by the Commission of certain funds authorised by the Appropriation Act, 1973, to be appropriated out of the Consolidated Revenue Fund;
- (g) to require the Commission to cause an investigation to be made into the matters referred to in clause 20 and to report to the Minister;
- (h) to make other provisions of a minor or ancillary character.





PROOF

No. , 1974.

# A BILL

To constitute the New South Wales Planning and Environment Commission and to define its powers, authorities, duties and functions; to dissolve The State Planning Authority of New South Wales; to amend the State Planning Authority Act, 1963, and certain other Acts; and for purposes connected therewith.

[SIR CHARLES CUTLER—26 March, 1974.]

BE

*New South Wales Planning and Environment Commission.*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**PART I.**

**PRELIMINARY.**

1. This Act may be cited as the "New South Wales Short title.  
Planning and Environment Commission Act, 1974".

2. This Act shall commence upon such day as may be Commence-  
appointed by the Governor in respect thereof and as may be ment.  
notified by proclamation published in the Gazette.

3. This Act is divided as follows :—

Division  
of Act.

PART I.—PRELIMINARY—ss. 1–4.

15 PART II.—CONSTITUTION OF THE NEW SOUTH WALES  
PLANNING AND ENVIRONMENT COMMISSION—ss.  
5–17.

20 PART III.—RESPONSIBILITIES, POWERS, AUTHORITIES,  
DUTIES AND FUNCTIONS OF THE NEW SOUTH  
WALES PLANNING AND ENVIRONMENT COMMISSION  
—ss. 18–21.

PART IV.—AMENDMENT OF CERTAIN ACTS—s. 22.

SCHEDULE.

4. (1) In this Act, except in so far as the context or Interpretation.  
25 subject-matter otherwise indicates or requires—

"appointed day" means the day appointed and notified  
under section 2;

"Authority" means The State Planning Authority of New  
South Wales;

"Chairman"



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*New South Wales Planning and Environment Commission.*

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- “Chairman” means the person appointed under this Act as Chairman of the Commission;
- 5 “Commission” means the New South Wales Planning and Environment Commission constituted under this Act;
- “commissioner” means a person appointed under this Act as a commissioner;
- “council” has the meaning ascribed thereto in the Local Government Act, 1919;
- 10 “full-time commissioner” means a commissioner appointed on a nomination pursuant to section 6 (2) (a);
- “part-time commissioner” means a commissioner other than a full-time commissioner;
- 15 “regulations” means regulations made under this Act;
- “statutory body” means any body declared under subsection (2) to be a statutory body for the purposes of this Act.

(2) The Governor may, by proclamation in the  
 20 Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of the definition of “statutory body” in subsection (1).

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PART II.

25 CONSTITUTION OF THE NEW SOUTH WALES PLANNING AND ENVIRONMENT COMMISSION.

5. (1) There is hereby constituted a corporation under the corporate name of the “New South Wales Planning and Environment Commission”. Constitution of Commission.

(2)

*New South Wales Planning and Environment Commission.*

(2) The Commission—

- (a) shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed on it by or under this or any other Act;
- 5 (b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown; and
- (c) shall, in the exercise and performance of its powers, authorities, duties and functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and
- 10 direction of the Minister.

6. (1) The Commission shall consist of five commis- Appointment  
of commis-  
sioners.  
sioners appointed by the Governor.

(2) Of the commissioners—

- 15 (a) three shall be appointed on the nomination of the Minister;
- (b) one shall be a serving member of a council nominated by the Minister; and
- (c) one shall be nominated by the Minister to represent
- 20 the interests of the community.

(3) At least one of the full-time commissioners shall possess the qualifications in town and country planning prescribed under the Local Government Act, 1919.

(4) The holder of an office or place of profit under  
25 the Crown shall not be eligible for nomination pursuant to subsection (2) (b) and, if so nominated, shall not be appointed.

(5) The nomination of the part-time commissioner referred to in subsection (2) (b) shall be made by the  
30 Minister following consultation with the Local Government Association of New South Wales and with the Shires Association of New South Wales.

(6)



*New South Wales Planning and Environment Commission.*

(6) A full-time commissioner shall, subject to this Act, hold office as a member for such term, not exceeding seven years, as may be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time.

(7) A part-time commissioner shall, subject to this Act, hold office as a commissioner for such term, not exceeding five years, as may be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time.

(8) The re-appointment of a commissioner shall—

- (a) in the case of a full-time commissioner, be for such term not exceeding seven years; and
  - (b) in the case of a part-time commissioner, be for such term not exceeding five years,
- as may be specified in the instrument of his re-appointment.

(9) On the occurrence of a vacancy in the office of a commissioner otherwise than by the expiration of the term for which he was appointed, the Governor may appoint a person to hold office as a commissioner for the balance, or for part of the balance, of his predecessor's term of office.

(10) A person shall not be appointed as a commissioner if—

- (a) in the case of a full-time commissioner, he is of or above the age of sixty-five years; or
- (b) in the case of a part-time commissioner, he is of or above the age of seventy years.

(11) The provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment of a commissioner, and a commissioner is not subject to the terms of that Act during his term of office.

*New South Wales Planning and Environment Commission.*

7. (1) A full-time commissioner shall devote the whole of his time to the duties of his office and shall be paid such annual salary and allowances as the Governor may from time to time determine. Provision relating to commissioners generally.

5 (2) A full-time commissioner shall be appointed as Chairman of the Commission, and, if a Deputy Chairman is appointed, a full-time commissioner shall be appointed to that office.

10 (3) The Deputy Chairman or, if no person is appointed to that office, the commissioner appointed under section 8 (2), shall in the case of the absence through illness or any other cause of the Chairman, act in the place of the Chairman, and while so acting shall be deemed to be the Chairman, and shall have the immunities, powers, authorities, 15 duties and functions of the Chairman.

(4) A part-time commissioner shall be entitled to receive such remuneration (whether by way of fees, allowances, or otherwise) and such travelling and out-of-pocket expenses as may be prescribed.

20 (5) The office of a part-time commissioner shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.

(6) Subsection (1) shall not prevent a commissioner who at any time before the appointed day is a member of the 25 Authority, a member of a statutory body or an officer under the Public Service Act, 1902, from carrying out before the appointed day the duties of his office as such a member or officer.

30 8. (1) The Minister may appoint a person, other than a commissioner, to act in the office of a full-time commissioner, other than the Chairman, while that full-time commissioner is from time to time absent from that office through illness or any other cause, or, in the case of the Deputy Chairman, while Appointment of substitutes to act during absence of commissioners.

he



*New South Wales Planning and Environment Commission.*

he is, pursuant to section 7 (3), acting from time to time in the place of the Chairman, and the person so appointed shall while so acting be deemed to be a full-time commissioner and shall have the immunities, powers, authorities, duties and functions of the full-time commissioner in whose office he has been appointed to act.

(2) During any period where no person is appointed to the office, referred to in section 7 (3), of the Deputy Chairman the Minister may appoint a commissioner to act in the place of the Chairman.

(3) A person does not, by reason only of his being appointed under subsection (1) to act in the office, referred to in section 7 (3), of the Deputy Chairman, become the Deputy Chairman.

(4) A person who is of or above the age of sixty-five years shall not be appointed to act in the office of a full-time commissioner and a person who is of or above the age of seventy years shall not be appointed to act in the office of a part-time commissioner.

9. No person shall be concerned to enquire whether or not any occasion has arisen requiring or authorising the Deputy Chairman or a commissioner appointed under section 8 (2) to act in the office of the Chairman or a person, appointed under section 8 (1), to act in the office of any commissioner, and all acts and things done or omitted by the Deputy Chairman, that commissioner or that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the Chairman or the commissioner in whose office the person, appointed under section 8 (1), was appointed to act.

Substitute  
commis-  
sioner's  
right to  
act not  
examinable.

10. (1) A commissioner shall be deemed to have vacated his office—

Casual  
vacancy.

(a) if he dies;

(b)

*New South Wales Planning and Environment Commission.*

- (b) if, being a full-time commissioner, he engages in any paid employment outside the duties of his office;
- 5 (c) if, being a full-time commissioner, he absents himself from duty for a period exceeding fourteen consecutive days except on leave granted by the Minister (which leave the Minister is hereby authorised to grant), unless his absence is occasioned by illness or other unavoidable cause;
- 10 (d) if, being a part-time commissioner, he is absent from four consecutive meetings of the Commission of which reasonable notice has been given him either personally or in the ordinary course of post, except on leave granted by the Minister (which
- 15 leave the Minister is hereby authorised to grant) before the expiration of four weeks after the last of those meetings;
- (e) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment of his salary, remuneration or allowances as a commissioner, or of his estate, for their benefit;
- 20 (f) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person, within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- 25 (g) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour so punishable;
- 30 (h) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts the resignation;
- 35

(i)



*New South Wales Planning and Environment Commission.*

- (i) if, having been appointed by virtue of his being a serving member of a council, he ceases to be a serving member of the council;
- 5 (j) if, at any meeting of the Commission at which he is present and at which any agreement or proposed agreement in which he has a direct or indirect pecuniary interest, or any other matter in which he has such an interest, is the subject of consideration or is included on the agenda for  
10 consideration—
  - (i) he fails, as soon as practicable after the commencement of the meeting, to disclose to the meeting his interest in; or
  - 15 (ii) he takes part in the consideration or discussion of, or votes on any question with respect to,  
the agreement, proposed agreement or other matter;
- (k) if—
  - 20 (i) he has any direct or indirect pecuniary interest in any agreement with the Commission, or in any other matter in which the Commission is concerned, other than an interest in an agreement or other matter which he has in the like manner to that  
25 applicable, and subject to the like conditions applicable, in the case of persons who are not commissioners; or
  - (ii) by virtue of his office as a commissioner, he accepts or acquires any personal profit  
30 or advantage other than under this Act; or
- (l) if he is removed from office by the Governor for misbehaviour or incompetence.

*New South Wales Planning and Environment Commission.*

(2) A full-time commissioner shall be deemed to have vacated his office on the day on which he attains the age of sixty-five years.

(3) If—

- 5 (a) a company has a direct or indirect pecuniary interest in any agreement, proposed agreement or other matter the subject of consideration at a meeting of the Commission; or
- 10 (b) a company has a direct or indirect pecuniary interest in any agreement with the Commission or in any other matter in which the Commission is concerned,

a commissioner who—

- 15 (c) is a member of the governing body of, or is a substantial shareholder within the meaning of section 69c of the Companies Act, 1961, in, that company shall, for the purposes of subsection (1) (j) and (k), be deemed to have a direct or indirect pecuniary interest in that agreement,
- 20 proposed agreement or other matter; or
- (d) has a relevant interest, within the meaning of section 6A of that Act, in any share of the company shall for the purposes of subsection (1) (j) be deemed to have a direct or indirect
- 25 pecuniary interest in that agreement, proposed agreement or other matter.

(4) A commissioner who, at any time before the appointed day, is a member of the Authority or a statutory body, or is an officer under the Public Service Act, 1902, shall not be deemed to have vacated his office as a commissioner by reason only of his engaging, before that day, in paid employment as a member of the Authority or statutory body or as an officer under the Public Service Act, 1902, as the case may be.



*New South Wales Planning and Environment Commission.*

11. (1) In this section, "superannuation scheme" means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Preservation  
of rights of  
commis-  
sioners  
previously  
public  
servants.

5 (2) Subject to subsection (3) and to the terms of his appointment, where a full-time commissioner was, immediately before his appointment as a commissioner—

- (a) an officer of the Public Service;
- (b) a contributor to a superannuation scheme;
- 10 (c) an officer employed by any statutory body; or
- (d) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

- 15 (e) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
- (f) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as a commissioner; and
- 20 (g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he had continued to be such an officer, contributor or person during his service as a commissioner, and—

- 25 (h) his service as a commissioner shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and
- 30 (i) he shall be deemed to be an officer or employee, and the Commission shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this subsection.

(3)

*New South Wales Planning and Environment Commission.*

(3) A commissioner who, but for this subsection, would be entitled under subsection (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme shall not be so entitled upon his becoming (whether upon his appointment as a commissioner or at any later time while he holds office as a commissioner) a contributor to any other superannuation scheme, and the provisions of subsection (2) (i) cease to apply to or in respect of him and the Commission in any case where he becomes a contributor to such another superannuation scheme.

(4) Subsection (3) does not prevent the payment to a commissioner upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of resignation, to be an officer or employee for the purposes of that scheme.

(5) A commissioner shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

12. (1) In this section—

20 “officer or employee of a prescribed authority” does not include a commissioner or member of any other statutory body;

“prescribed authority” means the Commission and any other statutory body;

25 “retiring age” means—

(a) in relation to a person who was, immediately before his appointment as a commissioner, an officer of the Public Service—the age of sixty years; and

30 (b) in relation to a person who was, immediately before his appointment as a commissioner, an officer or employee of a prescribed authority—the age at which officers or employees,

Commissioner entitled to re-appointment in former employment in certain cases.



*New South Wales Planning and Environment Commission.*

5 employees, as the case may be (being officers or employees of the class to which that person belonged immediately before his appointment as a commissioner), of that prescribed authority are entitled to retire.

(2) A full-time commissioner who ceases to be a commissioner otherwise than pursuant to section 10 (1) (paragraph (h) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately  
10 before his appointment as a commissioner, he was—

- (a) an officer of the Public Service—to some office in the Public Service;
- 15 (b) an officer or employee of a prescribed authority being the Commission—to some office in the service of the Commission; or
- (c) an officer or employee of some other prescribed authority—to some office in the service of that prescribed authority,

not lower in classification and salary than that which he held  
20 immediately before his appointment as a commissioner.

13. (1) The procedure for the calling of meetings of the Commission and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Commission. Meetings of the Commission.

(2) The Chairman shall preside at all meetings of the  
25 Commission at which he is present.

(3) In the absence of the Chairman, the Deputy Chairman, any person appointed pursuant to section 8 (1) to act in the office of Deputy Chairman and the commissioner appointed under section 8 (2), the other full-time  
30 commissioner may preside at that meeting.

(4)

*New South Wales Planning and Environment Commission.*

(4) Three commissioners, of whom two shall be full-time commissioners, shall form a quorum at any meeting of the Commission and any duly convened meeting of the Commission at which a quorum is present shall be competent to  
 5 transact any business of the Commission and shall have and may exercise and perform all the powers, authorities, duties and functions of the Commission.

(5) In the event of an equality of votes at any meeting of the Commission, the person presiding at the meet-  
 10 ing shall have, in addition to a deliberative vote, a second or casting vote.

(6) Subject to subsection (5), a decision of a majority of the commissioners present at a meeting of the Commission at which a quorum is present shall be the decision  
 15 of the Commission.

(7) The Commission shall cause a record of its decisions and full and accurate minutes of the proceedings at its meetings to be kept and shall submit to the Minister a copy of the minutes of each meeting within fourteen days after the  
 20 day on which it was held.

(8) No matter or thing done, and no contract entered into, by the Commission, and no matter or thing done by any commissioner or by any other person acting under the direction or as a delegate of the Commission shall,  
 25 if the matter or thing was done, or the contract was entered into, bona fide for the purpose of executing this Act or any other Act conferring or imposing powers, authorities, duties or functions on the Commission, subject the member or person so acting personally to any action, liability, claim or  
 30 demand.

(9) Nothing in subsection (8) shall exempt any commissioner or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General, and which that commissioner or other person  
 35 authorised or joined in authorising.



*New South Wales Planning and Environment Commission.*

14. (1) The Governor may appoint and employ, under and subject to the Public Service Act, 1902, such officers and employees as may be necessary to enable the Commission to exercise and perform its powers, authorities, duties and functions under this or any other Act, and any such officer or employee shall take office on such day (which may not be before the appointed day) as may be specified in the instrument of his appointment.

Staff  
establish-  
ment of  
Commission  
and  
appointment  
of officers  
and  
employees.

(2) An officer or employee holding office under this section is, in this Act and in any other Act conferring or imposing powers, authorities, duties or functions on the Commission, referred to as an officer or employee or servant of, or as being employed by, the Commission.

(3) For the purpose of exercising and performing the powers, authorities, duties and functions conferred or imposed on the Commission by this or any other Act, the Commission may, with the approval of the Minister of the Department concerned and on such terms as may be arranged, make use of the services of any of the officers or employees of any Government Department.

(4) The Commission may for the like purpose, with the approval of any other public authority or council, make use of the services of any of the officers, servants or employees of that public authority or council, as the case may be.

15. The persons who, immediately before the appointed day, were servants of the Authority shall, on that day, become and be officers or employees, as the case may be, of the Commission pursuant to section 14.

Transfer of  
certain  
employees.

16. (1) In this section, "superannuation scheme" means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Preservation  
of rights of  
transferred  
officers and  
employees.

(2)



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*New South Wales Planning and Environment Commission.*

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(2) Subject to subsections (3) and (6) a person who becomes an officer of the Commission under section 15 shall—

- 5 (a) retain any rights and privileges accrued or accruing to him as a servant of the Authority;
- (b) continue to contribute to any superannuation scheme to which he was a contributor immediately before the appointed day; and
- 10 (c) be entitled to receive any deferred or extended leave and any payment, pension or gratuity,  
as if he had continued to be a servant of the Authority during the period he is an officer of the Commission, and—
- 15 (d) his service as an officer of the Commission shall be deemed to be service as an officer for the purpose of any law under which those rights or privileges accrued or were accruing, under which he continues so to contribute or by which that entitlement is conferred; and
- 20 (e) he shall be deemed to be an officer, and the Commission shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this subsection.

(3) An officer of the Commission who, but for this subsection, would be entitled under subsection (2) to  
25 contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme shall not be so entitled upon his becoming, while he is such an officer, a contributor to any other superannuation scheme, and the provisions of subsection (2) (e) cease to apply to or in  
30 respect of him and the Commission in any case where he becomes a contributor to such another superannuation scheme.

(4) Subsection (3) does not prevent the payment to an officer of the Commission upon his ceasing to be a contributor to a superannuation scheme of such amount as  
35 would have been payable to him if he had ceased, by reason of resignation, to be an officer for the purposes of that scheme.

(5)



*New South Wales Planning and Environment Commission.*

(5) An officer of the Commission shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

(6) Where a condition of employment of any officer transferred to the service of the Commission by section 15 was, immediately before the appointed day, regulated by an award or industrial agreement, that condition shall continue to be so regulated until it is varied by an award by which the Commission is bound made by a court of competent jurisdiction, or that condition is regulated by an industrial agreement to which the Commission is a party.

17. If a commissioner or other person discloses any information obtained in connection with the administration or execution of this Act or of any other Act conferring or imposing responsibilities, powers, authorities, duties or functions on the Commission and that disclosure is not made—

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act or any such other Act;
- (c) for the purposes of any legal proceedings arising out of this Act or any such other Act or of any report of any such proceedings; or
- (d) with other lawful excuse,

that commissioner or other person is guilty of an offence and, on conviction by a court of summary jurisdiction, liable to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding six months.



### PART III.

5 **18.** (1) On the appointed day, the Authority is dissolved  
and the Department of Environment is abolished.

(2) On and from the appointed day—

10 (a) all real and personal property and all right and  
interest therein and all management and control  
thereof that, immediately before that day, was  
vested in or belonged to the Authority shall vest in  
and belong to the Commission;

15 (b) all money and liquidated and unliquidated claims  
that, immediately before that day, were payable to  
or recoverable by the Authority shall be money and  
liquidated and unliquidated claims payable to or  
recoverable by the Commission;

20 (c) all proceedings commenced before that day by the  
Authority and pending immediately before that day  
shall be deemed to be proceedings pending on that  
day by the Commission and all proceedings so com-  
menced by any person against the Authority and  
pending immediately before that day shall be  
deemed to be proceedings pending on that day by  
25 that person against the Commission;

(d) all contracts, agreements, arrangements and under-  
takings entered into with, and all securities lawfully  
given to or by, the Authority and in force imme-  
diately before that day shall be deemed to be con-  
30 tracts, agreements, arrangements and undertakings  
entered into with and securities given to or by the  
Commission;

(e) the Commission may, in addition to pursuing any  
other remedies or exercising any other powers that  
35 may be available to it, pursue the same remedies  
for

Dissolution of Authority  
and  
abolition of  
Department  
of  
Environ-  
ment.



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*New South Wales Planning and Environment Commission.*

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for the recovery of money and claims referred to in this subsection and for the prosecution of actions and proceedings so referred to as the Authority might have done but for the enactment of this Act;

5 (f) the Commission may enforce and realise any security or charge existing immediately before that day in favour of the Authority and may exercise any powers thereby conferred on the Authority as if the security or charge were a security or charge in  
10 favour of the Commission;

(g) all debts, money and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, the Authority shall be debts due by, money payable by  
15 and claims recoverable against, the Commission; and

(h) all liquidated and unliquidated claims for which the Authority would, but for the enactment of this Act, have been liable shall be liquidated and unliquidated  
20 claims for which the Commission shall be liable.

(3) On and from the appointed day, a reference in any other Act or in any regulation, by-law or other statutory instrument or in any other document, whether of the same or of a different kind, to the Authority shall be read and construed  
25 as a reference to the Commission.

(4) Any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of the Authority or an officer of the Authority shall, to the extent that but for the enactment of this Act that act, matter or thing  
30 would on or after that day have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the Commission or an officer of the Commission, whichever of them is, on or after that day, appropriate in relation to the doing of or omission to do that  
35 act, matter or thing.

(5)

*New South Wales Planning and Environment Commission.*

(5) Any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of the Department of Environment or an officer of that Department shall, to the extent that but for the enactment of this Act that  
 5 act, matter or thing would on or after that day have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the State Pollution Control Commission or an officer of the Commission, whichever of them is, on or after that day, appropriate in  
 10 relation to the doing of or omission to do that act, matter or thing.

(6) No attornment to the Commission by a lessee from the Authority shall be required.

19. (1) The sums authorised by the Appropriation Act, 1973, to be appropriated out of the Consolidated Revenue Fund and to be issued and applied for or towards the subheadings of expenditure under the heading "MINISTER FOR LOCAL GOVERNMENT" relating to contributions or grants to the Authority, and that would but for this Act have been  
 20 available for expenditure in connection with the functions of the Authority, shall be deemed, to the extent that, at the appointed day, they have not been so issued or applied, to be sums authorised by that Act to be appropriated out of that Fund and to be issued and applied for or towards the corresponding subheadings of expenditure in the General Fund of the Commission.

Unexpended funds appropriated for Minister for Environment Control and the Authority.

(2) The sums authorised by the Appropriation Act, 1973, to be appropriated out of the Consolidated Revenue Fund and to be issued and applied for or towards such of the subheadings of expenditure under the heading "MINISTER FOR ENVIRONMENT CONTROL", not related to the administration costs and expenses of the State Pollution Control Commission, and that would but for this Act have been available for expenditure in connection with the functions of the Department of Environment, shall be deemed, to the extent that, at the appointed day, they have not been so issued or applied,

to



*New South Wales Planning and Environment Commission.*

to be sums authorised by that Act to be appropriated out of that Fund and to be issued and applied for or towards the corresponding subheadings of expenditure in the General Fund of the State Pollution Control Commission.

- 5     **20.** (1) As soon as practicable after the appointed day, the Commission shall cause an investigation to be made of—  
          (a) the responsibilities, powers, authorities, duties and functions conferred upon it by or under this or any other Act; and

Commission  
to conduct  
investiga-  
tion and  
report to  
Minister.

- 10           (b) the law and practice relating to town and country planning, and land use and environmental planning,

and, not later than one year after that day, or such further period as the Governor may determine, shall furnish to the Minister a report of its investigation recommending the  
15 organisational, administrative or other changes and adjustments which, in its judgment, are necessary in the public interest for the purpose of improving, restructuring, integrating or co-ordinating the planning of the use of land, and the legislative or other measures it considers necessary to give  
20 effect to that recommendation, and to the environmental measures relating thereto.

- (2) In so far as any such investigation relates to or affects the responsibilities, powers, authorities, duties and functions of any officer of a Government Department, or of  
25 any statutory body whether or not declared under section 4 (2) to be a statutory body for the purposes of this Act, or of a council, that officer, statutory body, or council, as the case may be, shall afford the Commission all such assistance and shall make available to it all such information  
30 with respect to his or its responsibilities, powers, authorities, duties and functions as the Commission may require.

(3) Notwithstanding any other provision in this section, the Minister may appoint any person to make an investigation into, or in connection with, any matter (being

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*New South Wales Planning and Environment Commission.*

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a matter to which subsection (1) relates) that is specified in the instrument of appointment of that person or in any order made by the Minister after any such appointment.

- 5 (4) The Commission and the officers of the Commission shall afford a person appointed under subsection (3) all such assistance, and shall make available to him all such information with respect to its or their responsibilities, powers, authorities, duties and functions, as he may require for the purpose of carrying out any investigation.

- 10 21. The Governor may make regulations, not inconsistent **Regulations.** with this Act, for or with respect to any matter which by this Act is required or permitted to be prescribed or which is necessary or convenient to be prescribed for the carrying out or giving effect to this Act.

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**PART IV.****AMENDMENT OF CERTAIN ACTS.**

22. Each Act specified in Column 1 of the Schedule is **Amendment** amended in the manner specified opposite that Act in Column **of certain** 2 of the Schedule. **Acts.**

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**SCHEDULE.**



*New South Wales Planning and Environment Commission.*

## SCHEDULE.

Sec. 22.

## AMENDMENT OF ACTS.

Column 1		Column 2
5	Year and number of Act	Short title of Act
10		Amendment
10	1961, No. 69..	Clean Air Act, 1961
15		Section 5 (1)— Omit the definition of "Commission", insert instead the following definition:— "Commission" means the State Pollution Control Commission constituted under the State Pollution Control Commission Act, 1970.
20	1970, No. 78..	Clean Waters Act, 1970
25		Section 5— Omit the definition of "Commission", insert instead the following definition:— "Commission" means the State Pollution Control Commission constituted under the State Pollution Control Commission Act, 1970;
30	1970, No. 22..	Land Development Contribution Management Act, 1970
35		Section 3 (1)— Omit the definition of "Authority", insert instead the following definition:— "Authority" means the New South Wales Planning and Environment Commission constituted under the New South Wales Planning and Environment Commission Act, 1974;
40	1919, No. 41..	Local Government Act, 1919
45		Section 342B— Omit the definition of "Authority", insert instead the following definition:— "Authority" means the New South Wales Planning and Environment Commission constituted under the New South Wales Planning and Environment Commission Act, 1974.
50	1970, No. 95..	State Pollution Control Commission Act, 1970
		Section 18 (2) (i)— Omit "The State Planning Authority of New South Wales nominated by that Authority", insert instead "the New South Wales Planning and Environment Commission constituted under the New South Wales Planning and Environment Commission Act, 1974".

## SCHEDULE

*New South Wales Planning and Environment Commission.*

## SCHEDULE—continued.

Column 1		Column 2
Year and number of Act	Short title of Act	Amendment
5 10 1972, No. 38..	Regional Organisation Act, 1972.	Section 24 (3)— Omit paragraph (b), insert instead the following paragraph:— (b) the New South Wales Planning and Environment Commission; or

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974



# New South Wales



ANNO VICESIMO TERTIO

## ELIZABETHÆ II REGINÆ

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### Act No. 43, 1974.

An Act to constitute the New South Wales Planning and Environment Commission and to define its powers, authorities, duties and functions; to dissolve The State Planning Authority of New South Wales; to amend the State Planning Authority Act, 1963, and certain other Acts; and for purposes connected therewith. [Assented to, 23rd April, 1974.]

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*New South Wales Planning and Environment Commission.*

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**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

## PART I.

### PRELIMINARY.

**Short title.**      1. This Act may be cited as the "New South Wales Planning and Environment Commission Act, 1974".

**Commence-  
ment.**            2. This Act shall commence upon such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

**Division  
of Act.**            3. This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1–4.

PART II.—CONSTITUTION OF THE NEW SOUTH WALES  
PLANNING AND ENVIRONMENT COMMISSION—ss.  
5–17.

PART III.—RESPONSIBILITIES, POWERS, AUTHORITIES,  
DUTIES AND FUNCTIONS OF THE NEW SOUTH  
WALES PLANNING AND ENVIRONMENT COMMISSION  
—ss. 18–21.

PART IV.—AMENDMENT OF CERTAIN ACTS—s. 22.

SCHEDULE.

**Interpreta-  
tion.**            4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“appointed day” means the day appointed and notified under section 2;

“Authority” means The State Planning Authority of New South Wales;

“Chairman”



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*New South Wales Planning and Environment Commission.*

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“Chairman” means the person appointed under this Act as Chairman of the Commission;

“Commission” means the New South Wales Planning and Environment Commission constituted under this Act;

“commissioner” means a person appointed under this Act as a commissioner;

“council” has the meaning ascribed thereto in the Local Government Act, 1919;

“full-time commissioner” means a commissioner appointed on a nomination pursuant to section 6 (2) (a);

“part-time commissioner” means a commissioner other than a full-time commissioner;

“regulations” means regulations made under this Act;

“statutory body” means any body declared under subsection (2) to be a statutory body for the purposes of this Act.

(2) The Governor may, by proclamation in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of the definition of “statutory body” in subsection (1).

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**PART II.**

**CONSTITUTION OF THE NEW SOUTH WALES PLANNING AND ENVIRONMENT COMMISSION.**

5. (1) There is hereby constituted a corporation under the corporate name of the “New South Wales Planning and Environment Commission”. Constitution of Commission.

(2)

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*New South Wales Planning and Environment Commission.*

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## (2) The Commission—

- (a) shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed on it by or under this or any other Act;
- (b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown; and
- (c) shall, in the exercise and performance of its powers, authorities, duties and functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister.

Appointment  
of commis-  
sioners.

6. (1) The Commission shall consist of five commissioners appointed by the Governor.

## (2) Of the commissioners—

- (a) three shall be appointed on the nomination of the Minister;
- (b) one shall be a serving member of a council nominated by the Minister; and
- (c) one shall be nominated by the Minister to represent the interests of the community.

(3) At least one of the full-time commissioners shall possess the qualifications in town and country planning prescribed under the Local Government Act, 1919, or such other qualifications in town and country planning as are acceptable to the Minister.

(4) The holder of an office or place of profit under the Crown shall not be eligible for nomination pursuant to subsection (2) (b) and, if so nominated, shall not be appointed.

(5) The nomination of the part-time commissioner referred to in subsection (2) (b) shall be made by the Minister following consultation with the Local Government Association of New South Wales and with the Shires Association of New South Wales.

(6)



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*New South Wales Planning and Environment Commission.*

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(6) A full-time commissioner shall, subject to this Act, hold office as a member for such term, not exceeding seven years, as may be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time.

(7) A part-time commissioner shall, subject to this Act, hold office as a commissioner for such term, not exceeding five years, as may be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time.

(8) The re-appointment of a commissioner shall—

- (a) in the case of a full-time commissioner, be for such term not exceeding seven years; and
- (b) in the case of a part-time commissioner, be for such term not exceeding five years,

as may be specified in the instrument of his re-appointment.

(9) On the occurrence of a vacancy in the office of a commissioner otherwise than by the expiration of the term for which he was appointed, the Governor may appoint a person to hold office as a commissioner for the balance, or for part of the balance, of his predecessor's term of office.

(10) A person shall not be appointed as a commissioner if—

- (a) in the case of a full-time commissioner, he is of or above the age of sixty-five years; or
- (b) in the case of a part-time commissioner, he is of or above the age of seventy years.

(11) The provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment of a commissioner, and a commissioner is not subject to the terms of that Act during his term of office.

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*New South Wales Planning and Environment Commission.*

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Provision  
relating to  
commis-  
sioners  
generally.

7. (1) A full-time commissioner shall devote the whole of his time to the duties of his office and shall be paid such annual salary and allowances as the Governor may from time to time determine.

(2) A full-time commissioner shall be appointed as Chairman of the Commission, and, if a Deputy Chairman is appointed, a full-time commissioner shall be appointed to that office.

(3) The Deputy Chairman or, if no person is appointed to that office, the commissioner appointed under section 8 (2), shall in the case of the absence through illness or any other cause of the Chairman, act in the place of the Chairman, and while so acting shall be deemed to be the Chairman, and shall have the immunities, powers, authorities, duties and functions of the Chairman.

(4) A part-time commissioner shall be entitled to receive such remuneration (whether by way of fees, allowances, or otherwise) and such travelling and out-of-pocket expenses as may be prescribed.

(5) The office of a part-time commissioner shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.

(6) Subsection (1) shall not prevent a commissioner who at any time before the appointed day is a member of the Authority, a member of a statutory body or an officer under the Public Service Act, 1902, from carrying out before the appointed day the duties of his office as such a member or officer.

Appoint-  
ment of  
substitutes  
to act  
during  
absence  
of commis-  
sioners.

8. (1) The Minister may appoint a person, other than a commissioner, to act in the office of a full-time commissioner, other than the Chairman, while that full-time commissioner is from time to time absent from that office through illness or any other cause, or, in the case of the Deputy Chairman, while

he



*New South Wales Planning and Environment Commission.*

he is, pursuant to section 7 (3), acting from time to time in the place of the Chairman, and the person so appointed shall while so acting be deemed to be a full-time commissioner and shall have the immunities, powers, authorities, duties and functions of the full-time commissioner in whose office he has been appointed to act.

(2) During any period where no person is appointed to the office, referred to in section 7 (3), of the Deputy Chairman the Minister may appoint a commissioner to act in the place of the Chairman.

(3) A person does not, by reason only of his being appointed under subsection (1) to act in the office, referred to in section 7 (3), of the Deputy Chairman, become the Deputy Chairman.

(4) A person who is of or above the age of sixty-five years shall not be appointed to act in the office of a full-time commissioner and a person who is of or above the age of seventy years shall not be appointed to act in the office of a part-time commissioner.

9. No person shall be concerned to enquire whether or not any occasion has arisen requiring or authorising the Deputy Chairman or a commissioner appointed under section 8 (2) to act in the office of the Chairman or a person, appointed under section 8 (1), to act in the office of any commissioner, and all acts and things done or omitted by the Deputy Chairman, that commissioner or that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the Chairman or the commissioner in whose office the person, appointed under section 8 (1), was appointed to act.

Substitute  
commis-  
sioner's  
right to  
act not  
examinable.

10. (1) A commissioner shall be deemed to have vacated his office—

Casual  
vacancy.

(a) if he dies;

(b)

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*New South Wales Planning and Environment Commission.*

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- (b) if, being a full-time commissioner, he engages in any paid employment outside the duties of his office;
- (c) if, being a full-time commissioner, he absents himself from duty for a period exceeding fourteen consecutive days except on leave granted by the Minister (which leave the Minister is hereby authorised to grant), unless his absence is occasioned by illness or other unavoidable cause;
- (d) if, being a part-time commissioner, he is absent from four consecutive meetings of the Commission of which reasonable notice has been given him either personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) before the expiration of four weeks after the last of those meetings;
- (e) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment of his salary, remuneration or allowances as a commissioner, or of his estate, for their benefit;
- (f) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person, within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (g) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour so punishable;
- (h) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts the resignation;

(i)



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*New South Wales Planning and Environment Commission.*

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(i) if, having been appointed by virtue of his being a serving member of a council, he ceases to be a serving member of the council;

(j) if, at any meeting of the Commission at which he is present and at which any agreement or proposed agreement in which he has a direct or indirect pecuniary interest, or any other matter in which he has such an interest, is the subject of consideration or is included on the agenda for consideration—

(i) he fails, as soon as practicable after the commencement of the meeting, to disclose to the meeting his interest in; or

(ii) he takes part in the consideration or discussion of, or votes on any question with respect to,

the agreement, proposed agreement or other matter;

(k) if—

(i) he has any direct or indirect pecuniary interest in any agreement with the Commission, or in any other matter in which the Commission is concerned, other than an interest in an agreement or other matter which he has in the like manner to that applicable, and subject to the like conditions applicable, in the case of persons who are not commissioners; or

(ii) by virtue of his office as a commissioner, he accepts or acquires any personal profit or advantage other than under this Act; or

(l) if he is removed from office by the Governor for misbehaviour or incompetence.

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*New South Wales Planning and Environment Commission.*

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(2) (a) A full-time commissioner shall be deemed to have vacated his office on the day on which he attains the age of sixty-five years.

(b) A part-time commissioner shall be deemed to have vacated his office on the day on which he attains the age of seventy years.

(3) If—

(a) a company has a direct or indirect pecuniary interest in any agreement, proposed agreement or other matter the subject of consideration at a meeting of the Commission; or

(b) a company has a direct or indirect pecuniary interest in any agreement with the Commission or in any other matter in which the Commission is concerned,

a commissioner who—

(c) is a member of the governing body of, or is a substantial shareholder within the meaning of section 69C of the Companies Act, 1961, in, that company shall, for the purposes of subsection (1) (j) and (k), be deemed to have a direct or indirect pecuniary interest in that agreement, proposed agreement or other matter; or

(d) has a relevant interest, within the meaning of section 6A of that Act, in any share of the company shall for the purposes of subsection (1) (j) be deemed to have a direct or indirect pecuniary interest in that agreement, proposed agreement or other matter.

(4) A commissioner who, at any time before the appointed day, is a member of the Authority or a statutory body, or is an officer under the Public Service Act, 1902, shall not be deemed to have vacated his office as a commissioner by reason only of his engaging, before that day, in paid employment as a member of the Authority or statutory body or as an officer under the Public Service Act, 1902, as the case may be.



*New South Wales Planning and Environment Commission.*

11. (1) In this section, "superannuation scheme" means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Preservation of rights of commissioners previously public servants.

(2) Subject to subsection (3) and to the terms of his appointment, where a full-time commissioner was, immediately before his appointment as a commissioner—

- (a) an officer of the Public Service;
- (b) a contributor to a superannuation scheme;
- (c) an officer employed by any statutory body; or
- (d) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

- (e) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
- (f) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as a commissioner; and
- (g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he had continued to be such an officer, contributor or person during his service as a commissioner, and—

- (h) his service as a commissioner shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and
- (i) he shall be deemed to be an officer or employee, and the Commission shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this subsection.

(3)

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*New South Wales Planning and Environment Commission.*

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(3) A commissioner who, but for this subsection, would be entitled under subsection (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme shall not be so entitled upon his becoming (whether upon his appointment as a commissioner or at any later time while he holds office as a commissioner) a contributor to any other superannuation scheme, and the provisions of subsection (2) (i) cease to apply to or in respect of him and the Commission in any case where he becomes a contributor to such another superannuation scheme.

(4) Subsection (3) does not prevent the payment to a commissioner upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of resignation, to be an officer or employee for the purposes of that scheme.

(5) A commissioner shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

Commissioner  
entitled  
to re-  
appointment  
in former  
employment  
in certain  
cases.

**12. (1) In this section—**

“officer or employee of a prescribed authority” does not include a commissioner or member of any other statutory body;

“prescribed authority” means the Commission and any other statutory body;

“retiring age” means—

(a) in relation to a person who was, immediately before his appointment as a commissioner, an officer of the Public Service—the age of sixty years; and

(b) in relation to a person who was, immediately before his appointment as a commissioner, an officer or employee of a prescribed authority—the age at which officers or employees,



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*New South Wales Planning and Environment Commission.*

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employees, as the case may be (being officers or employees of the class to which that person belonged immediately before his appointment as a commissioner), of that prescribed authority are entitled to retire.

(2) A full-time commissioner who ceases to be a commissioner otherwise than pursuant to section 10 (1) (paragraph (h) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as a commissioner, he was—

- (a) an officer of the Public Service—to some office in the Public Service;
- (b) an officer or employee of a prescribed authority being the Commission—to some office in the service of the Commission; or
- (c) an officer or employee of some other prescribed authority—to some office in the service of that prescribed authority,

not lower in classification and salary than that which he held immediately before his appointment as a commissioner.

**13.** (1) The procedure for the calling of meetings of the Commission and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Commission. Meetings of the Commission.

(2) The Chairman shall preside at all meetings of the Commission at which he is present.

(3) In the absence of the Chairman, the Deputy Chairman, any person appointed pursuant to section 8 (1) to act in the office of Deputy Chairman and the commissioner appointed under section 8 (2), the other full-time commissioner may preside at that meeting.

(4)

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*New South Wales Planning and Environment Commission.*

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(4) Three commissioners, of whom two shall be full-time commissioners, shall form a quorum at any meeting of the Commission and any duly convened meeting of the Commission at which a quorum is present shall be competent to transact any business of the Commission and shall have and may exercise and perform all the powers, authorities, duties and functions of the Commission.

(5) In the event of an equality of votes at any meeting of the Commission, the person presiding at the meeting shall have, in addition to a deliberative vote, a second or casting vote.

(6) Subject to subsection (5), a decision of a majority of the commissioners present at a meeting of the Commission at which a quorum is present shall be the decision of the Commission.

(7) The Commission shall cause a record of its decisions and full and accurate minutes of the proceedings at its meetings to be kept and shall submit to the Minister a copy of the minutes of each meeting within fourteen days after the day on which it was held.

(8) No matter or thing done, and no contract entered into, by the Commission, and no matter or thing done by any commissioner or by any other person acting under the direction or as a delegate of the Commission shall, if the matter or thing was done, or the contract was entered into, bona fide for the purpose of executing this Act or any other Act conferring or imposing powers, authorities, duties or functions on the Commission, subject the member or person so acting personally to any action, liability, claim or demand.

(9) Nothing in subsection (8) shall exempt any commissioner or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General, and which that commissioner or other person authorised or joined in authorising.



*New South Wales Planning and Environment Commission.*

**14.** (1) The Governor may appoint and employ, under and subject to the Public Service Act, 1902, such officers and employees as may be necessary to enable the Commission to exercise and perform its powers, authorities, duties and functions under this or any other Act, and any such officer or employee shall take office on such day (which may not be before the appointed day) as may be specified in the instrument of his appointment.

Staff establishment of Commission and appointment of officers and employees.

(2) An officer or employee holding office under this section is, in this Act and in any other Act conferring or imposing powers, authorities, duties or functions on the Commission, referred to as an officer or employee or servant of, or as being employed by, the Commission.

(3) For the purpose of exercising and performing the powers, authorities, duties and functions conferred or imposed on the Commission by this or any other Act, the Commission may, with the approval of the Minister of the Department concerned and on such terms as may be arranged, make use of the services of any of the officers or employees of any Government Department.

(4) The Commission may for the like purpose, with the approval of any other public authority or council, make use of the services of any of the officers, servants or employees of that public authority or council, as the case may be.

**15.** The persons who, immediately before the appointed day, were servants of the Authority shall, on that day, become and be officers or employees, as the case may be, of the Commission pursuant to section 14.

Transfer of certain employees.

**16.** (1) In this section, "superannuation scheme" means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Preservation of rights of transferred officers and employees.

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*New South Wales Planning and Environment Commission.*

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(2) Subject to subsections (3) and (6) a person who becomes an officer of the Commission under section 15 shall—

- (a) retain any rights and privileges accrued or accruing to him as a servant of the Authority;
- (b) continue to contribute to any superannuation scheme to which he was a contributor immediately before the appointed day; and
- (c) be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he had continued to be a servant of the Authority during the period he is an officer of the Commission, and—

- (d) his service as an officer of the Commission shall be deemed to be service as an officer for the purpose of any law under which those rights or privileges accrued or were accruing, under which he continues so to contribute or by which that entitlement is conferred; and
- (e) he shall be deemed to be an officer, and the Commission shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this subsection.

(3) An officer of the Commission who, but for this subsection, would be entitled under subsection (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme shall not be so entitled upon his becoming, while he is such an officer, a contributor to any other superannuation scheme, and the provisions of subsection (2) (e) cease to apply to or in respect of him and the Commission in any case where he becomes a contributor to such another superannuation scheme.

(4) Notwithstanding anything in the Superannuation Act, 1916, where, by the operation of section 15, a person becomes an officer of the Commission (being a person who, immediately before the appointed day, was not a contributor

to,



*New South Wales Planning and Environment Commission.*

to, or entitled or required to contribute to, the Fund established under that Act)—

- (a) that person is a prescribed person for the purposes of Part IV of the Superannuation (Amendment) Act, 1974;
- (b) that person is not, except as such a prescribed person, entitled or required to become a contributor to that Fund;
- (c) the prescribed period for the purposes of that Part is, in relation to that person, the period of three months that next succeeds the appointed day under this Act; and
- (d) that Part shall, for the purposes of this subsection, be deemed to have commenced on the appointed day under this Act.

(5) An officer of the Commission shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

(6) Where a condition of employment of any officer transferred to the service of the Commission by section 15 was, immediately before the appointed day, regulated by an award or industrial agreement, that condition shall continue to be so regulated until it is varied by an award by which the Commission is bound made by a court of competent jurisdiction, or that condition is regulated by an industrial agreement to which the Commission is a party.

**17.** If a commissioner or other person discloses any information obtained in connection with the administration or execution of this Act or of any other Act conferring or imposing responsibilities, powers, authorities, duties or functions on the Commission and that disclosure is not made—

Disclosure  
of  
information.

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act or any such other Act;

B

(c)

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*New South Wales Planning and Environment Commission.*

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- (c) for the purposes of any legal proceedings arising out of this Act or any such other Act or of any report of any such proceedings; or

- (d) with other lawful excuse,

that commissioner or other person is guilty of an offence and, on conviction by a court of summary jurisdiction, liable to a penalty not exceeding \$2,000 or to imprisonment for a term not exceeding six months.

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### PART III.

#### RESPONSIBILITIES, POWERS, AUTHORITIES, DUTIES AND FUNCTIONS OF THE NEW SOUTH WALES PLANNING AND ENVIRONMENT COMMISSION.

Dissolution  
of Authority  
and  
abolition of  
Department  
of  
Environ-  
ment.

- 18.** (1) On the appointed day, the Authority is dissolved and the Department of Environment is abolished.

- (2) On and from the appointed day—

- (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to the Authority shall vest in and belong to the Commission;
- (b) all money and liquidated and unliquidated claims that, immediately before that day, were payable to or recoverable by the Authority shall be money and liquidated and unliquidated claims payable to or recoverable by the Commission;
- (c) all proceedings commenced before that day by the Authority and pending immediately before that day shall be deemed to be proceedings pending on that day by the Commission and all proceedings so commenced by any person against the Authority and pending immediately before that day shall be deemed to be proceedings pending on that day by that person against the Commission;

(d)



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*New South Wales Planning and Environment Commission.*

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- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the Authority and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Commission;
  - (e) the Commission may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subsection and for the prosecution of actions and proceedings so referred to as the Authority might have done but for the enactment of this Act;
  - (f) the Commission may enforce and realise any security or charge existing immediately before that day in favour of the Authority and may exercise any powers thereby conferred on the Authority as if the security or charge were a security or charge in favour of the Commission;
  - (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, the Authority shall be debts due by, money payable by and claims recoverable against, the Commission; and
  - (h) all liquidated and unliquidated claims for which the Authority would, but for the enactment of this Act, have been liable shall be liquidated and unliquidated claims for which the Commission shall be liable.
- (3) On and from the appointed day, a reference in any other Act or in any regulation, by-law or other statutory instrument or in any other document, whether of the same or of a different kind, to the Authority shall be read and construed as a reference to the Commission.
- (4) Any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of the Authority or an officer of the Authority shall, to the extent
- that

*New South Wales Planning and Environment Commission.*

that but for the enactment of this Act that act, matter or thing would on or after that day have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the Commission or an officer of the Commission, whichever of them is, on or after that day, appropriate in relation to the doing of or omission to do that act, matter or thing.

(5) Any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of the Department of Environment or an officer of that Department shall, to the extent that but for the enactment of this Act that act, matter or thing would on or after that day have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the State Pollution Control Commission or an officer of the Commission, whichever of them is, on or after that day, appropriate in relation to the doing of or omission to do that act, matter or thing.

(6) No attornment to the Commission by a lessee from the Authority shall be required.

Unexpended  
funds  
appropri-  
ated for  
Minister for  
Environ-  
ment  
Control  
and the  
Authority.

19. (1) The sums authorised by the Appropriation Act, 1973, to be appropriated out of the Consolidated Revenue Fund and to be issued and applied for or towards the subheadings of expenditure under the heading "MINISTER FOR LOCAL GOVERNMENT" relating to contributions or grants to the Authority, and that would but for this Act have been available for expenditure in connection with the functions of the Authority, shall be deemed, to the extent that, at the appointed day, they have not been so issued or applied, to be sums authorised by that Act to be appropriated out of that Fund and to be issued and applied for or towards the corresponding subheadings of expenditure in the General Fund of the Commission.

(2) The sums authorised by the Appropriation Act, 1973, to be appropriated out of the Consolidated Revenue Fund and to be issued and applied for or towards such of the subheadings of expenditure under the heading "MINISTER FOR

ENVIRONMENT



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*New South Wales Planning and Environment Commission.*

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ENVIRONMENT CONTROL", not related to the administration costs and expenses of the State Pollution Control Commission, and that would but for this Act have been available for expenditure in connection with the functions of the Department of Environment, shall be deemed, to the extent that, at the appointed day, they have not been so issued or applied, to be sums authorised by that Act to be appropriated out of that Fund and to be issued and applied for or towards the corresponding subheadings of expenditure in the General Fund of the State Pollution Control Commission.

20. (1) As soon as practicable after the appointed day, the Commission shall cause an investigation to be made of—  
Commission to conduct investigation and report to Minister.

(a) the responsibilities, powers, authorities, duties and functions conferred upon it by or under this or any other Act; and

(b) the law and practice relating to town and country planning, and land use and environmental planning,

and, not later than one year after that day, or such further period as the Governor may determine, shall furnish to the Minister a report of its investigation recommending the organisational, administrative or other changes and adjustments which, in its judgment, are necessary in the public interest for the purpose of improving, restructuring, integrating or co-ordinating the planning of the use of land, and the legislative or other measures it considers necessary to give effect to that recommendation, and to the environmental measures relating thereto.

(2) In so far as any such investigation relates to or affects the responsibilities, powers, authorities, duties and functions of any officer of a Government Department, or of any statutory body whether or not declared under section 4 (2) to be a statutory body for the purposes of this Act, or of a council, that officer, statutory body, or council, as the case may be, shall afford the Commission all such assistance and shall make available to it all such information with respect to his or its responsibilities, powers, authorities, duties and functions as the Commission may require.

(3)

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*New South Wales Planning and Environment Commission.*

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(3) Notwithstanding any other provision in this section, the Minister may appoint any person to make an investigation into, or in connection with, any matter (being a matter to which subsection (1) relates) that is specified in the instrument of appointment of that person or in any order made by the Minister after any such appointment.

(4) The Commission and the officers of the Commission shall afford a person appointed under subsection (3) all such assistance, and shall make available to him all such information with respect to its or their responsibilities, powers, authorities, duties and functions, as he may require for the purpose of carrying out any investigation.

**Regulations.**    **21.** The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter which by this Act is required or permitted to be prescribed or which is necessary or convenient to be prescribed for the carrying out or giving effect to this Act.

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**PART IV.**

**AMENDMENT OF CERTAIN ACTS.**

**Amendment of certain Acts.**    **22.** Each Act specified in Column 1 of the Schedule is amended in the manner specified opposite that Act in Column 2 of the Schedule.

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**SCHEDULE.**



*New South Wales Planning and Environment Commission.*

## SCHEDULE.

Sec. 22.

## AMENDMENT OF ACTS.

Column 1		Column 2
Year and number of Act	Short title of Act	Amendment
1961, No. 69..	Clean Air Act, 1961	Section 5 (1)— Omit the definition of "Commission", insert instead the following definition:— "Commission" means the State Pollution Control Commission constituted under the State Pollution Control Commission Act, 1970.
1970, No. 78..	Clean Waters Act, 1970	Section 5— Omit the definition of "Commission", insert instead the following definition:— "Commission" means the State Pollution Control Commission constituted under the State Pollution Control Commission Act, 1970;
1970, No. 22..	Land Development Contribution Management Act, 1970	Section 3 (1)— Omit the definition of "Authority", insert instead the following definition:— "Authority" means the New South Wales Planning and Environment Commission constituted under the New South Wales Planning and Environment Commission Act, 1974;
1919, No. 41..	Local Government Act, 1919	Section 342B— Omit the definition of "Authority", insert instead the following definition:— "Authority" means the New South Wales Planning and Environment Commission constituted under the New South Wales Planning and Environment Commission Act, 1974.
1970, No. 95..	State Pollution Control Commission Act, 1970	Section 18 (2) (l)— Omit "The State Planning Authority of New South Wales nominated by that Authority", insert instead "the New South Wales Planning and Environment Commission constituted under the New South Wales Planning and Environment Commission Act, 1974".

## SCHEDULE

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*New South Wales Planning and Environment Commission.*

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**SCHEDULE—continued.**

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Column 1		Column 2
Year and number of Act	Short title of Act	Amendment
1972, No. 38.	Regional Organisation Act, 1972	Section 24 (3)— Omit paragraph (b), insert instead the following paragraph:— (b) the New South Wales Planning and Environment Commission; or.

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**BY AUTHORITY**

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1974



*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

R. E. WARD,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 4 April, 1974, A.M.*

## New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

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Act No. 43, 1974.

An Act to constitute the New South Wales Planning and Environment Commission and to define its powers, authorities, duties and functions; to dissolve The State Planning Authority of New South Wales; to amend the State Planning Authority Act, 1963, and certain other Acts; and for purposes connected therewith. [Assented to, 23rd April, 1974.]

BE

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

J. H. BROWN,  
*Chairman of Committees of the Legislative Assembly.*

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*New South Wales Planning and Environment Commission.*

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**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**PART I.**

**PRELIMINARY.**

**Short title.**     **1.** This Act may be cited as the "New South Wales Planning and Environment Commission Act, 1974".

**Commence-  
ment.**         **2.** This Act shall commence upon such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

**Division  
of Act.**       **3.** This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1–4.

PART II.—CONSTITUTION OF THE NEW SOUTH WALES  
PLANNING AND ENVIRONMENT COMMISSION—ss.  
5–17.

PART III.—RESPONSIBILITIES, POWERS, AUTHORITIES,  
DUTIES AND FUNCTIONS OF THE NEW SOUTH  
WALES PLANNING AND ENVIRONMENT COMMISSION  
—ss. 18–21.

PART IV.—AMENDMENT OF CERTAIN ACTS—s. 22.

SCHEDULE.

**Interpreta-  
tion.**         **4.** (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“appointed day” means the day appointed and notified  
under section 2;

“Authority” means The State Planning Authority of New  
South Wales;

“Chairman”



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*New South Wales Planning and Environment Commission.*

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“Chairman” means the person appointed under this Act as Chairman of the Commission;

“Commission” means the New South Wales Planning and Environment Commission constituted under this Act;

“commissioner” means a person appointed under this Act as a commissioner;

“council” has the meaning ascribed thereto in the Local Government Act, 1919;

“full-time commissioner” means a commissioner appointed on a nomination pursuant to section 6 (2) (a);

“part-time commissioner” means a commissioner other than a full-time commissioner;

“regulations” means regulations made under this Act;

“statutory body” means any body declared under subsection (2) to be a statutory body for the purposes of this Act.

(2) The Governor may, by proclamation in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of the definition of “statutory body” in subsection (1).

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PART II.

CONSTITUTION OF THE NEW SOUTH WALES PLANNING AND ENVIRONMENT COMMISSION.

5. (1) There is hereby constituted a corporation under the corporate name of the “New South Wales Planning and Environment Commission”. Constitution of Commission.

(2)

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*New South Wales Planning and Environment Commission.*

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## (2) The Commission—

- (a) shall have and may exercise and perform the powers, authorities, duties and functions conferred or imposed on it by or under this or any other Act;
- (b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown; and
- (c) shall, in the exercise and performance of its powers, authorities, duties and functions (except in relation to the contents of a report or recommendation made by it to the Minister), be subject to the control and direction of the Minister.

Appointment  
of commis-  
sioners.

6. (1) The Commission shall consist of five commissioners appointed by the Governor.

## (2) Of the commissioners—

- (a) three shall be appointed on the nomination of the Minister;
- (b) one shall be a serving member of a council nominated by the Minister; and
- (c) one shall be nominated by the Minister to represent the interests of the community.

(3) At least one of the full-time commissioners shall possess the qualifications in town and country planning prescribed under the Local Government Act, 1919, or such other qualifications in town and country planning as are acceptable to the Minister.

(4) The holder of an office or place of profit under the Crown shall not be eligible for nomination pursuant to subsection (2) (b) and, if so nominated, shall not be appointed.

(5) The nomination of the part-time commissioner referred to in subsection (2) (b) shall be made by the Minister following consultation with the Local Government Association of New South Wales and with the Shires Association of New South Wales.

(6)



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*New South Wales Planning and Environment Commission.*

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(6) A full-time commissioner shall, subject to this Act, hold office as a member for such term, not exceeding seven years, as may be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time.

(7) A part-time commissioner shall, subject to this Act, hold office as a commissioner for such term, not exceeding five years, as may be specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for re-appointment from time to time.

(8) The re-appointment of a commissioner shall—

- (a) in the case of a full-time commissioner, be for such term not exceeding seven years; and
- (b) in the case of a part-time commissioner, be for such term not exceeding five years,

as may be specified in the instrument of his re-appointment.

(9) On the occurrence of a vacancy in the office of a commissioner otherwise than by the expiration of the term for which he was appointed, the Governor may appoint a person to hold office as a commissioner for the balance, or for part of the balance, of his predecessor's term of office.

(10) A person shall not be appointed as a commissioner if—

- (a) in the case of a full-time commissioner, he is of or above the age of sixty-five years; or
- (b) in the case of a part-time commissioner, he is of or above the age of seventy years.

(11) The provisions of the Public Service Act, 1902, do not apply to or in respect of the appointment of a commissioner, and a commissioner is not subject to the terms of that Act during his term of office.

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*New South Wales Planning and Environment Commission.*

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Provision  
relating to  
commis-  
sioners  
generally.

7. (1) A full-time commissioner shall devote the whole of his time to the duties of his office and shall be paid such annual salary and allowances as the Governor may from time to time determine.

(2) A full-time commissioner shall be appointed as Chairman of the Commission, and, if a Deputy Chairman is appointed, a full-time commissioner shall be appointed to that office.

(3) The Deputy Chairman or, if no person is appointed to that office, the commissioner appointed under section 8 (2), shall in the case of the absence through illness or any other cause of the Chairman, act in the place of the Chairman, and while so acting shall be deemed to be the Chairman, and shall have the immunities, powers, authorities, duties and functions of the Chairman.

(4) A part-time commissioner shall be entitled to receive such remuneration (whether by way of fees, allowances, or otherwise) and such travelling and out-of-pocket expenses as may be prescribed.

(5) The office of a part-time commissioner shall not for the purposes of any Act be deemed to be an office or place of profit under the Crown.

(6) Subsection (1) shall not prevent a commissioner who at any time before the appointed day is a member of the Authority, a member of a statutory body or an officer under the Public Service Act, 1902, from carrying out before the appointed day the duties of his office as such a member or officer.

Appoint-  
ment of  
substitutes  
to act  
during  
absence  
of commis-  
sioners.

8. (1) The Minister may appoint a person, other than a commissioner, to act in the office of a full-time commissioner, other than the Chairman, while that full-time commissioner is from time to time absent from that office through illness or any other cause, or, in the case of the Deputy Chairman, while

he



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*New South Wales Planning and Environment Commission.*

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he is, pursuant to section 7 (3), acting from time to time in the place of the Chairman, and the person so appointed shall while so acting be deemed to be a full-time commissioner and shall have the immunities, powers, authorities, duties and functions of the full-time commissioner in whose office he has been appointed to act.

(2) During any period where no person is appointed to the office, referred to in section 7 (3), of the Deputy Chairman the Minister may appoint a commissioner to act in the place of the Chairman.

(3) A person does not, by reason only of his being appointed under subsection (1) to act in the office, referred to in section 7 (3), of the Deputy Chairman, become the Deputy Chairman.

(4) A person who is of or above the age of sixty-five years shall not be appointed to act in the office of a full-time commissioner and a person who is of or above the age of seventy years shall not be appointed to act in the office of a part-time commissioner.

9. No person shall be concerned to enquire whether or not any occasion has arisen requiring or authorising the Deputy Chairman or a commissioner appointed under section 8 (2) to act in the office of the Chairman or a person, appointed under section 8 (1), to act in the office of any commissioner, and all acts and things done or omitted by the Deputy Chairman, that commissioner or that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted by the Chairman or the commissioner in whose office the person, appointed under section 8 (1), was appointed to act.

Substitute  
commis-  
sioner's  
right to  
act not  
examinable.

10. (1) A commissioner shall be deemed to have vacated his office—

Casual  
vacancy.

(a) if he dies;

(b)

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*New South Wales Planning and Environment Commission.*

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- (b) if, being a full-time commissioner, he engages in any paid employment outside the duties of his office;
- (c) if, being a full-time commissioner, he absents himself from duty for a period exceeding fourteen consecutive days except on leave granted by the Minister (which leave the Minister is hereby authorised to grant), unless his absence is occasioned by illness or other unavoidable cause;
- (d) if, being a part-time commissioner, he is absent from four consecutive meetings of the Commission of which reasonable notice has been given him either personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) before the expiration of four weeks after the last of those meetings;
- (e) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment of his salary, remuneration or allowances as a commissioner, or of his estate, for their benefit;
- (f) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person, within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (g) if he is convicted in New South Wales of a felony or of a misdemeanour punishable by imprisonment for twelve months or upwards, or if he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour so punishable;
- (h) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts the resignation;

(i)



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*New South Wales Planning and Environment Commission.*

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(i) if, having been appointed by virtue of his being a serving member of a council, he ceases to be a serving member of the council;

(j) if, at any meeting of the Commission at which he is present and at which any agreement or proposed agreement in which he has a direct or indirect pecuniary interest, or any other matter in which he has such an interest, is the subject of consideration or is included on the agenda for consideration—

(i) he fails, as soon as practicable after the commencement of the meeting, to disclose to the meeting his interest in; or

(ii) he takes part in the consideration or discussion of, or votes on any question with respect to,

the agreement, proposed agreement or other matter;

(k) if—

(i) he has any direct or indirect pecuniary interest in any agreement with the Commission, or in any other matter in which the Commission is concerned, other than an interest in an agreement or other matter which he has in the like manner to that applicable, and subject to the like conditions applicable, in the case of persons who are not commissioners; or

(ii) by virtue of his office as a commissioner, he accepts or acquires any personal profit or advantage other than under this Act; or

(l) if he is removed from office by the Governor for misbehaviour or incompetence.

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*New South Wales Planning and Environment Commission.*

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(2) (a) A full-time commissioner shall be deemed to have vacated his office on the day on which he attains the age of sixty-five years.

(b) A part-time commissioner shall be deemed to have vacated his office on the day on which he attains the age of seventy years.

(3) If—

- (a) a company has a direct or indirect pecuniary interest in any agreement, proposed agreement or other matter the subject of consideration at a meeting of the Commission; or
- (b) a company has a direct or indirect pecuniary interest in any agreement with the Commission or in any other matter in which the Commission is concerned,

a commissioner who—

- (c) is a member of the governing body of, or is a substantial shareholder within the meaning of section 69C of the Companies Act, 1961, in, that company shall, for the purposes of subsection (1) (j) and (k), be deemed to have a direct or indirect pecuniary interest in that agreement, proposed agreement or other matter; or
- (d) has a relevant interest, within the meaning of section 6A of that Act, in any share of the company shall for the purposes of subsection (1) (j) be deemed to have a direct or indirect pecuniary interest in that agreement, proposed agreement or other matter.

(4) A commissioner who, at any time before the appointed day, is a member of the Authority or a statutory body, or is an officer under the Public Service Act, 1902, shall not be deemed to have vacated his office as a commissioner by reason only of his engaging, before that day, in paid employment as a member of the Authority or statutory body or as an officer under the Public Service Act, 1902, as the case may be.



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*New South Wales Planning and Environment Commission.*

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**11.** (1) In this section, "superannuation scheme" means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Preservation  
of rights of  
commis-  
sioners  
previously  
public  
servants.

(2) Subject to subsection (3) and to the terms of his appointment, where a full-time commissioner was, immediately before his appointment as a commissioner—

- (a) an officer of the Public Service;
- (b) a contributor to a superannuation scheme;
- (c) an officer employed by any statutory body; or
- (d) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

- (e) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
- (f) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as a commissioner; and
- (g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity, as if he had continued to be such an officer, contributor or person during his service as a commissioner, and—
- (h) his service as a commissioner shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and
- (i) he shall be deemed to be an officer or employee, and the Commission shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this subsection.

(3)

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(3) A commissioner who, but for this subsection, would be entitled under subsection (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme shall not be so entitled upon his becoming (whether upon his appointment as a commissioner or at any later time while he holds office as a commissioner) a contributor to any other superannuation scheme, and the provisions of subsection (2) (i) cease to apply to or in respect of him and the Commission in any case where he becomes a contributor to such another superannuation scheme.

(4) Subsection (3) does not prevent the payment to a commissioner upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of resignation, to be an officer or employee for the purposes of that scheme.

(5) A commissioner shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

Commissioner  
entitled  
to re-  
appointment  
in former  
employment  
in certain  
cases.

**12. (1) In this section—**

“officer or employee of a prescribed authority” does not include a commissioner or member of any other statutory body;

“prescribed authority” means the Commission and any other statutory body;

“retiring age” means—

(a) in relation to a person who was, immediately before his appointment as a commissioner, an officer of the Public Service—the age of sixty years; and

(b) in relation to a person who was, immediately before his appointment as a commissioner, an officer or employee of a prescribed authority—the age at which officers or employees,



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employees, as the case may be (being officers or employees of the class to which that person belonged immediately before his appointment as a commissioner), of that prescribed authority are entitled to retire.

(2) A full-time commissioner who ceases to be a commissioner otherwise than pursuant to section 10 (1) (paragraph (h) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as a commissioner, he was—

- (a) an officer of the Public Service—to some office in the Public Service;
- (b) an officer or employee of a prescribed authority being the Commission—to some office in the service of the Commission; or
- (c) an officer or employee of some other prescribed authority—to some office in the service of that prescribed authority,

not lower in classification and salary than that which he held immediately before his appointment as a commissioner.

**13.** (1) The procedure for the calling of meetings of the Commission and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Commission. Meetings  
of the  
Commis-  
sion.

(2) The Chairman shall preside at all meetings of the Commission at which he is present.

(3) In the absence of the Chairman, the Deputy Chairman, any person appointed pursuant to section 8 (1) to act in the office of Deputy Chairman and the commissioner appointed under section 8 (2), the other full-time commissioner may preside at that meeting.

(4)

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(4) Three commissioners, of whom two shall be full-time commissioners, shall form a quorum at any meeting of the Commission and any duly convened meeting of the Commission at which a quorum is present shall be competent to transact any business of the Commission and shall have and may exercise and perform all the powers, authorities, duties and functions of the Commission.

(5) In the event of an equality of votes at any meeting of the Commission, the person presiding at the meeting shall have, in addition to a deliberative vote, a second or casting vote.

(6) Subject to subsection (5), a decision of a majority of the commissioners present at a meeting of the Commission at which a quorum is present shall be the decision of the Commission.

(7) The Commission shall cause a record of its decisions and full and accurate minutes of the proceedings at its meetings to be kept and shall submit to the Minister a copy of the minutes of each meeting within fourteen days after the day on which it was held.

(8) No matter or thing done, and no contract entered into, by the Commission, and no matter or thing done by any commissioner or by any other person acting under the direction or as a delegate of the Commission shall, if the matter or thing was done, or the contract was entered into, bona fide for the purpose of executing this Act or any other Act conferring or imposing powers, authorities, duties or functions on the Commission, subject the member or person so acting personally to any action, liability, claim or demand.

(9) Nothing in subsection (8) shall exempt any commissioner or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General, and which that commissioner or other person authorised or joined in authorising.



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14. (1) The Governor may appoint and employ, under and subject to the Public Service Act, 1902, such officers and employees as may be necessary to enable the Commission to exercise and perform its powers, authorities, duties and functions under this or any other Act, and any such officer or employee shall take office on such day (which may not be before the appointed day) as may be specified in the instrument of his appointment.

Staff  
establish-  
ment of  
Commission  
and  
appointment  
of officers  
and  
employees.

(2) An officer or employee holding office under this section is, in this Act and in any other Act conferring or imposing powers, authorities, duties or functions on the Commission, referred to as an officer or employee or servant of, or as being employed by, the Commission.

(3) For the purpose of exercising and performing the powers, authorities, duties and functions conferred or imposed on the Commission by this or any other Act, the Commission may, with the approval of the Minister of the Department concerned and on such terms as may be arranged, make use of the services of any of the officers or employees of any Government Department.

(4) The Commission may for the like purpose, with the approval of any other public authority or council, make use of the services of any of the officers, servants or employees of that public authority or council, as the case may be.

15. The persons who, immediately before the appointed day, were servants of the Authority shall, on that day, become and be officers or employees, as the case may be, of the Commission pursuant to section 14.

Transfer of  
certain  
employees.

16. (1) In this section, "superannuation scheme" means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Preservation  
of rights of  
transferred  
officers and  
employees.

(2)

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(2) Subject to subsections (3) and (6) a person who becomes an officer of the Commission under section 15 shall—

- (a) retain any rights and privileges accrued or accruing to him as a servant of the Authority;
- (b) continue to contribute to any superannuation scheme to which he was a contributor immediately before the appointed day; and
- (c) be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he had continued to be a servant of the Authority during the period he is an officer of the Commission, and—

- (d) his service as an officer of the Commission shall be deemed to be service as an officer for the purpose of any law under which those rights or privileges accrued or were accruing, under which he continues so to contribute or by which that entitlement is conferred; and
- (e) he shall be deemed to be an officer, and the Commission shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this subsection.

(3) An officer of the Commission who, but for this subsection, would be entitled under subsection (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme shall not be so entitled upon his becoming, while he is such an officer, a contributor to any other superannuation scheme, and the provisions of subsection (2) (e) cease to apply to or in respect of him and the Commission in any case where he becomes a contributor to such another superannuation scheme.

(4) Notwithstanding anything in the Superannuation Act, 1916, where, by the operation of section 15, a person becomes an officer of the Commission (being a person who, immediately before the appointed day, was not a contributor

to,



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to, or entitled or required to contribute to, the Fund established under that Act)—

- (a) that person is a prescribed person for the purposes of Part IV of the Superannuation (Amendment) Act, 1974;
- (b) that person is not, except as such a prescribed person, entitled or required to become a contributor to that Fund;
- (c) the prescribed period for the purposes of that Part is, in relation to that person, the period of three months that next succeeds the appointed day under this Act; and
- (d) that Part shall, for the purposes of this subsection, be deemed to have commenced on the appointed day under this Act.

(5) An officer of the Commission shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

(6) Where a condition of employment of any officer transferred to the service of the Commission by section 15 was, immediately before the appointed day, regulated by an award or industrial agreement, that condition shall continue to be so regulated until it is varied by an award by which the Commission is bound made by a court of competent jurisdiction, or that condition is regulated by an industrial agreement to which the Commission is a party.

17. If a commissioner or other person discloses any information obtained in connection with the administration or execution of this Act or of any other Act conferring or imposing responsibilities, powers, authorities, duties or functions on the Commission and that disclosure is not made—

Disclosure  
of  
information.

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act or any such other Act;

(c)

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(c) for the purposes of any legal proceedings arising out of this Act or any such other Act or of any report of any such proceedings; or

(d) with other lawful excuse,

that commissioner or other person is guilty of an offence and, on conviction by a court of summary jurisdiction, liable to a penalty not exceeding \$2,000 or to imprisonment for a term not exceeding six months.

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PART III.

RESPONSIBILITIES, POWERS, AUTHORITIES, DUTIES AND  
FUNCTIONS OF THE NEW SOUTH WALES PLANNING  
AND ENVIRONMENT COMMISSION.

Dissolution  
of Authority  
and  
abolition of  
Department  
of  
Environ-  
ment.

18. (1) On the appointed day, the Authority is dissolved and the Department of Environment is abolished.

(2) On and from the appointed day—

- (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to the Authority shall vest in and belong to the Commission;
- (b) all money and liquidated and unliquidated claims that, immediately before that day, were payable to or recoverable by the Authority shall be money and liquidated and unliquidated claims payable to or recoverable by the Commission;
- (c) all proceedings commenced before that day by the Authority and pending immediately before that day shall be deemed to be proceedings pending on that day by the Commission and all proceedings so commenced by any person against the Authority and pending immediately before that day shall be deemed to be proceedings pending on that day by that person against the Commission;

(d)



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- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the Authority and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Commission;
- (e) the Commission may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subsection and for the prosecution of actions and proceedings so referred to as the Authority might have done but for the enactment of this Act;
- (f) the Commission may enforce and realise any security or charge existing immediately before that day in favour of the Authority and may exercise any powers thereby conferred on the Authority as if the security or charge were a security or charge in favour of the Commission;
- (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, the Authority shall be debts due by, money payable by and claims recoverable against, the Commission; and
- (h) all liquidated and unliquidated claims for which the Authority would, but for the enactment of this Act, have been liable shall be liquidated and unliquidated claims for which the Commission shall be liable.

(3) On and from the appointed day, a reference in any other Act or in any regulation, by-law or other statutory instrument or in any other document, whether of the same or of a different kind, to the Authority shall be read and construed as a reference to the Commission.

(4) Any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of the Authority or an officer of the Authority shall, to the extent that

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*New South Wales Planning and Environment Commission.*

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that but for the enactment of this Act that act, matter or thing would on or after that day have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the Commission or an officer of the Commission, whichever of them is, on or after that day, appropriate in relation to the doing of or omission to do that act, matter or thing.

(5) Any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of the Department of Environment or an officer of that Department shall, to the extent that but for the enactment of this Act that act, matter or thing would on or after that day have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the State Pollution Control Commission or an officer of the Commission, whichever of them is, on or after that day, appropriate in relation to the doing of or omission to do that act, matter or thing.

(6) No attornment to the Commission by a lessee from the Authority shall be required.

Unexpended  
funds  
appropri-  
ated for  
Minister for  
Environ-  
ment  
Control  
and the  
Authority.

**19.** (1) The sums authorised by the Appropriation Act, 1973, to be appropriated out of the Consolidated Revenue Fund and to be issued and applied for or towards the subheadings of expenditure under the heading "MINISTER FOR LOCAL GOVERNMENT" relating to contributions or grants to the Authority, and that would but for this Act have been available for expenditure in connection with the functions of the Authority, shall be deemed, to the extent that, at the appointed day, they have not been so issued or applied, to be sums authorised by that Act to be appropriated out of that Fund and to be issued and applied for or towards the corresponding subheadings of expenditure in the General Fund of the Commission.

(2) The sums authorised by the Appropriation Act, 1973, to be appropriated out of the Consolidated Revenue Fund and to be issued and applied for or towards such of the subheadings of expenditure under the heading "MINISTER FOR

ENVIRONMENT



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*New South Wales Planning and Environment Commission.*

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ENVIRONMENT CONTROL", not related to the administration costs and expenses of the State Pollution Control Commission, and that would but for this Act have been available for expenditure in connection with the functions of the Department of Environment, shall be deemed, to the extent that, at the appointed day, they have not been so issued or applied, to be sums authorised by that Act to be appropriated out of that Fund and to be issued and applied for or towards the corresponding subheadings of expenditure in the General Fund of the State Pollution Control Commission.

20. (1) As soon as practicable after the appointed day, the Commission shall cause an investigation to be made of—

Commission  
to conduct  
investiga-  
tion and  
report to  
Minister.

(a) the responsibilities, powers, authorities, duties and functions conferred upon it by or under this or any other Act; and

(b) the law and practice relating to town and country planning, and land use and environmental planning,

and, not later than one year after that day, or such further period as the Governor may determine, shall furnish to the Minister a report of its investigation recommending the organisational, administrative or other changes and adjustments which, in its judgment, are necessary in the public interest for the purpose of improving, restructuring, integrating or co-ordinating the planning of the use of land, and the legislative or other measures it considers necessary to give effect to that recommendation, and to the environmental measures relating thereto.

(2) In so far as any such investigation relates to or affects the responsibilities, powers, authorities, duties and functions of any officer of a Government Department, or of any statutory body whether or not declared under section 4 (2) to be a statutory body for the purposes of this Act, or of a council, that officer, statutory body, or council, as the case may be, shall afford the Commission all such assistance and shall make available to it all such information with respect to his or its responsibilities, powers, authorities, duties and functions as the Commission may require.

(3)

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*New South Wales Planning and Environment Commission.*

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(3) Notwithstanding any other provision in this section, the Minister may appoint any person to make an investigation into, or in connection with, any matter (being a matter to which subsection (1) relates) that is specified in the instrument of appointment of that person or in any order made by the Minister after any such appointment.

(4) The Commission and the officers of the Commission shall afford a person appointed under subsection (3) all such assistance, and shall make available to him all such information with respect to its or their responsibilities, powers, authorities, duties and functions, as he may require for the purpose of carrying out any investigation.

Regulations.

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

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**PART IV.**

**AMENDMENT OF CERTAIN ACTS.**

Amendment  
of certain  
Acts.

**22.** Each Act specified in Column 1 of the Schedule is amended in the manner specified opposite that Act in Column 2 of the Schedule.

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**SCHEDULE.**



*New South Wales Planning and Environment Commission.*

## SCHEDULE.

Sec. 22.

## AMENDMENT OF ACTS.

Column 1		Column 2
Year and number of Act	Short title of Act	Amendment
1961, No. 69..	Clean Air Act, 1961	Section 5 (1)— Omit the definition of "Commission", insert instead the following definition:— "Commission" means the State Pollution Control Commission constituted under the State Pollution Control Commission Act, 1970.
1970, No. 78..	Clean Waters Act, 1970	Section 5— Omit the definition of "Commission", insert instead the following definition:— "Commission" means the State Pollution Control Commission constituted under the State Pollution Control Commission Act, 1970;
1970, No. 22..	Land Development Contribution Management Act, 1970	Section 3 (1)— Omit the definition of "Authority", insert instead the following definition:— "Authority" means the New South Wales Planning and Environment Commission constituted under the New South Wales Planning and Environment Commission Act, 1974;
1919, No. 41..	Local Government Act, 1919	Section 342B— Omit the definition of "Authority", insert instead the following definition:— "Authority" means the New South Wales Planning and Environment Commission constituted under the New South Wales Planning and Environment Commission Act, 1974.
1970, No. 95..	State Pollution Control Commission Act, 1970	Section 18 (2) (1)— Omit "The State Planning Authority of New South Wales nominated by that Authority", insert instead "the New South Wales Planning and Environment Commission constituted under the New South Wales Planning and Environment Commission Act, 1974".

## SCHEDULE

*New South Wales Planning and Environment Commission.*SCHEDULE—*continued.*

Column 1		Column 2
Year and number of Act	Short title of Act	Amendment
1972, No. 38.	Regional Organisation Act, 1972	Section 24 (3)— Omit paragraph (b), insert instead the following paragraph:— (b) the New South Wales Planning and Environment Commission; or.

*In the name and on behalf of Her Majesty I assent to this Act.*

A. R. CUTLER,  
Governor.

Government House,  
Sydney, 23rd April, 1974.