

# CITY OF SYDNEY ACT 1988 No. 48

## NEW SOUTH WALES



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**CITY OF SYDNEY ACT 1988 No. 48**

NEW SOUTH WALES



**Act No. 48, 1988**

An Act relating to the constitution of the City of Sydney and the City of South Sydney; to make provisions for planning and major development within the City of Sydney; to repeal and amend certain enactments; and for other purposes. [Assented to 30 September 1988]

*City of Sydney 1988***The Legislature of New South Wales enacts:****PART 1—PRELIMINARY****Short title**

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

**Commencement**

2. (1) Subject to this section, this Act commences on a day or days to be appointed by proclamation.

- (2) Sections 1 and 2 commence on the date of assent.

- (3) For the purposes only of enabling the Council of the City of Sydney and the Council of the City of South Sydney to be constituted in accordance with this Act on or after (but not before) the commencement of Part 2—

- (a) elections may be held under this Act; and

- (b) any other act, matter or thing may be done,

before that commencement as if the whole of this Act commenced on the date of assent, but so that no person takes office before that commencement as a result of such an election.

**Principal Act**

3. (1) The Local Government Act 1919 is referred to in this Act as the Principal Act.

- (2) This Act (Part 4 and Schedule 1 excepted) shall be construed with, and as if it formed part of, the Principal Act.

- (3) In the event of an inconsistency between this Act and the Principal Act, this Act shall prevail to the extent of the inconsistency.

**Definitions**

4. (1) In this Act—

“City Council” means the Council of the City of Sydney;

“Planning Act” means the Environmental Planning and Assessment Act 1979;

“Planning Committee” means the Central City Planning Committee constituted by this Act;

“South Sydney Council” means the Council of the City of South Sydney.

- (2) In this Act—

- (a) a reference to a function includes a reference to a power, authority and duty; and

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

**PART 2—CONSTITUTION OF THE CITIES OF SYDNEY AND SOUTH SYDNEY****Division 1—City of Sydney****Boundaries of City of Sydney**

5. (1) The boundaries of the City of Sydney are altered by taking from it the land described in a proclamation made for the purposes of this subsection.

(2) The alteration shall be taken to have been effected by a proclamation under section 16 of the Principal Act.

(3) The resulting boundaries of the City of Sydney shall be as described in a proclamation made for the purposes of this subsection.

(4) Section 19 of the Principal Act does not apply to or in respect of a proclamation made for the purposes of subsection (1) or (3).

(5) Section 18 of the Principal Act does not apply to the City of Sydney when altered under this Act or the Principal Act.

**Absence of wards**

6. (1) The City of Sydney shall not be divided into wards.

(2) Any division into wards of the City of Sydney before the commencement of this Part is abolished.

**Number of aldermen**

7. (1) The City Council shall have 7 aldermen.

(2) The number of aldermen may however be altered under section 23 of the Principal Act.

**Election of Lord Mayor**

8. Section 25A of the Principal Act does not apply to the City of Sydney.

**Town clerk**

9. (1) The town clerk of the City of Sydney may exercise any function exercisable by a mayor under section 87 (2) of the Principal Act, section 87 (2) (f) excepted.

(2) The town clerk, in the exercise of any such function, is subject to the control and direction of the Lord Mayor of Sydney.

(3) The Lord Mayor of Sydney shall notify the City Council of any direction given for the purposes of this section as soon as practicable after the direction is given.

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(4) The town clerk shall not exercise any such function to the extent to which the City Council has resolved that the function not be exercised by the clerk.

**Division 2—City of South Sydney****Constitution of City of South Sydney**

10. (1) There is constituted by this section a City of South Sydney, with boundaries as described in the proclamation under section 5 (1).

(2) The constitution by this section of the City of South Sydney shall be taken to have been effected by a proclamation under section 16 of the Principal Act.

**Division into wards**

11. (1) The City of South Sydney shall be divided into 3 wards under section 58 of the Principal Act.

(2) Section 58 (3) of the Principal Act does not apply to the initial division into wards.

(3) Except as provided by subsection (2), nothing in this section limits section 58 of the Principal Act.

**Number of aldermen**

12. (1) The South Sydney Council shall have 9 aldermen.

(2) The number of aldermen may however be altered under section 23 of the Principal Act.

**Election of Mayor**

13. Section 25A of the Principal Act does not apply to the City of South Sydney.

**PART 3—ELECTIONS****Division 1—Enrolment for elections for the City Council****Definitions**

14. (1) For the purposes of this Division—

(a) “owner” means—

(i) a joint or several owner of ratable land; and

(ii) the holder or resident manager of a lease, promise or contract of lease from the Crown of ratable Crown land,

but does not include—



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- (iii) a lessee of ratable land (not being Crown land) or a person who merely occupies any such ratable land under a licence or other agreement; or
- (iv) where ratable land is held on trust, a beneficiary under the trust;
- (b) "ratepaying lessee" means a person who has been continuously, during the period of 3 months preceding the relevant date, the lessee (whether jointly or severally) of ratable land and who is liable, under a lease in writing or other document of title relating to the land, to pay to any person the whole or any part of any local government rates which may be made or levied in respect of the land;
- (c) "occupier" means, subject to subsections (2) and (3), a person who has been continuously, during the period of 3 months preceding the relevant date, in actual occupation of ratable land (jointly or severally, but not as owner or ratepaying lessee) where the annual amount payable by the person (or by the person together with another person or other persons) for the right to that occupation is at least \$5,000 (or, if the regulations prescribe a greater amount, the greater amount so prescribed);
- (d) "resident" means a person who is, on the relevant date, enrolled, within the meaning of the Parliamentary Electorates and Elections Act 1912, on the roll for any electoral district and whose place of living as described on that roll is within the City of Sydney;
- (e) "ratable land" includes all land on which any rate is leviable or levied under the Principal Act, but does not include land comprised solely of a lot in a strata plan within the meaning of the Strata Titles Act 1973 or the Strata Titles (Leasehold) Act 1986, being a lot designed, constructed or used solely or principally for the parking of a motor vehicle;
- (f) "relevant date" means, for the purposes of determining—
  - (i) whether or not a person is entitled to have the person's name placed—
    - (A) on the list referred to in section 18—the date on which the determination is made; or
    - (B) on a residential roll of electors—the date on which the claim for enrolment is made; or
  - (ii) whether a person is entitled to vote at an election—the date prescribed under the Principal Act for the closing of the residential roll for the election; and
- (g) "joint" and "jointly", in relation to owning, holding or occupying land, includes owning, holding or occupying in common.

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(2) If the annual amount payable for the joint occupation of any ratable land exceeds \$5,000 (or the greater amount prescribed for the purposes of subsection (1) (c)), the maximum number of occupiers of that ratable land for the purposes of subsection (1) (c) is the number obtained by dividing the annual amount so payable by 5,000 (or an amount equivalent to the greater amount prescribed) ignoring any remainder.

(3) If, because of the operation of subsection (2), it is necessary to choose the persons with the requisite qualifications as electors from among a number of joint occupiers, the choice shall be made—

- (a) in accordance with a written nomination signed by the majority of those occupiers; or
- (b) if no such nomination is made, by the town clerk of the City of Sydney having regard to the alphabetical order of the surnames of the occupiers or on such other basis as the town clerk considers appropriate in the circumstances of the case.

**Requisite qualification of an elector**

15. (1) In order to have the requisite qualification of an elector in respect of the City of Sydney for the purposes of Part 5 of the Principal Act, a person must be either—

- (a) an owner, ratepaying lessee or occupier of ratable land in the City of Sydney; or
- (b) a resident of the City of Sydney.

(2) Sections 51–54 of the Principal Act do not apply to the City of Sydney.

**Provisions relating to qualification of electors**

16. (1) If a corporation is the owner, ratepaying lessee or occupier of ratable land, one natural person nominated in writing by the corporation as elector shall be taken to have the requisite qualification of an elector instead of the corporation.

(2) If a corporation fails to nominate a person as an elector under this section, the secretary of the corporation shall be taken to be nominated until a nomination is made.

(3) If the same person or group of persons is the owner, ratepaying lessee or occupier of 2 or more parcels of ratable land (whether in one or more of those capacities), all those parcels shall be taken to be a single parcel of land for the purposes of this section and (if applicable) to be held by the person or group in only one of those capacities.

(4) If a person has the requisite qualification of an elector as a resident of the City of Sydney, the person shall be taken not to have the requisite qualification of an elector in any other capacity.

(5) In this section, a reference to a person does not exclude a reference to a corporation merely because elsewhere in this section there is particular reference to a corporation.

### **Roll of electors**

17. In the application of Division 4 of Part 5 of the Principal Act to an election for the City of Sydney—

- (a) a reference in that Division to the non-residential roll shall be read as a reference to the roll prepared by the town clerk of the City of Sydney under section 19 of persons qualified under section 15 (1) (a) to be electors; and
- (b) a reference in that Division to persons qualified under section 51 (1) (b) of the Principal Act to be electors in connection with the residential roll shall be read as a reference to persons qualified under section 15 (1) (b) to be electors.

### **List of electors for compulsory enrolment on non-residential roll**

18. (1) The town clerk of the City of Sydney shall keep and continuously maintain up to date a list of persons who, in the opinion of the clerk, have the requisite qualifications under section 15 (1) (a) to be electors in respect of the City of Sydney.

(2) A person who is disqualified to be an elector under section 55 of the Principal Act is not entitled to have the person's name placed on the list.

(3) The list may be inspected at the office of the City Council at any reasonable time during office hours by any person.

(4) A person may, at any time, lodge with the town clerk—

- (a) a claim to have the person's name included in the list or to have any particulars shown on the list against the person's name amended; or
- (b) an objection to the inclusion of the person's name or the name of any other person in the list or to any of the particulars shown against the person's name or the name of that or any other person.

(5) The town clerk shall, within the prescribed time after the claim or objection is lodged, consider it and may allow or disallow it.

(6) The town clerk shall—

- (a) after determining any claim or objection, serve by post notice of the town clerk's determination on the claimant or objector and, in the case of an objection, any other person in respect of whom the objection was made; and
- (b) make the appropriate entry in, or alteration of, the list to give effect to the determination.

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(7) If any claimant, objector or person in respect of whom an objection was made is dissatisfied with the determination made by the town clerk, the person may appeal, in the manner prescribed, to the Local Court nearest to the principal office of the City Council and the town clerk shall make the appropriate entry in, or alteration of, the list to give effect to the decision of the Court on the appeal.

(8) Until the regulations under this Act otherwise provide—

- (a) the time prescribed for the purposes of subsection (5) shall be the time prescribed for the purposes of section 65 (6) of the Principal Act; and
- (b) the manner prescribed for the purposes of subsection (7) shall be the manner prescribed for the purposes of section 65 (7) of the Principal Act.

**Non-residential roll**

19. (1) After the closing date for the election, the town clerk of the City of Sydney shall, after dealing, in accordance with section 18 (5) and (6), with any claim or objection received in the office of the City Council on or before that date but not then determined, certify in writing the list under section 18 of the persons who had, on that date, the requisite qualifications under section 15 (1) (a) to be electors in respect of the City of Sydney.

(2) The list certified under subsection (1) shall be the non-residential roll of electors for the election.

(3) The non-residential roll shall not be altered between the closing date for an election and the end of the day on which the election is held.

(4) Section 65A of the Principal Act (Non-residential roll) does not apply to the City of Sydney.

(5) In this section—

“closing date”, in relation to an election, means the date prescribed under the Principal Act for the closing of the residential roll for the election.

**Division 2—Voting at elections for the City Council****Voting by electors not enrolled**

20. Section 56A of the Principal Act applies to all persons who claim to be entitled to vote at an election for the City of Sydney, and not merely to residents.

**Voting where secretary of corporation enrolled as elector**

21. (1) If—

- (a) the secretary of a corporation has the requisite qualification of an elector pursuant to section 16 (2) because the corporation has failed to nominate a person as an elector; and

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(b) the town clerk of the City of Sydney is unable to readily ascertain the name and address of the secretary,  
the secretary may be included in the list under section 18 and the non-residential roll for the election as the secretary of the corporation concerned without specifying the person's name and address.

(2) A person who purports to vote at the election as the secretary of that corporation may do so only if the person signs and delivers to the relevant electoral official a statutory declaration which—

- (a) states the person's name and address;
- (b) declares that the person is the secretary of the corporation or a person who has been authorised by the corporation to vote on behalf of the corporation at the election; and
- (c) declares that the person does not have a requisite qualification of an elector in any other capacity.

**Compulsory voting at elections and polls**

22. (1) A person who is entitled to vote at an election of aldermen for the City of Sydney shall record his or her vote at the election.

(2) In the application of sections 74B-74F of the Principal Act (Compulsory voting) to any such election—

- (a) a reference in those sections to section 74A shall be read as a reference to this section; and
- (b) a reference in those sections to a resident shall be read as including a reference to a person included on the non-residential roll for the election; and
- (c) a reference in those sections to the residential roll shall be read as including a reference to the non-residential roll for the election.

(3) In the application of section 82A of the Principal Act (Compulsory voting at certain polls) to a poll in the City of Sydney, a reference in that section to persons whose place of living is in the area or part of an area in which the poll is taken shall be read as a reference to all persons who have the requisite qualification as electors in respect of the City of Sydney in relation to that area or part.

**Division 3—First elections for Cities of Sydney and South Sydney****Definition**

23. In this Division—

“first election” means—

- (a) in relation to the City of Sydney—the first election of aldermen for the City of Sydney held after the date of assent to this Act; and

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- (b) in relation to the City of South Sydney—the first election of aldermen for the City of South Sydney held after the date of assent to this Act.

**Preparation of rolls**

24. (1) Rolls of electors for the first elections shall be prepared in accordance with this Act and the Principal Act.

(2) The town clerk of the City of Sydney has the functions of the town clerk of the City of South Sydney for the purposes of the preparation of the non-residential roll of electors for the first election for the City of South Sydney.

**Appointment of days for first elections**

25. (1) The Minister may, by order published in the Gazette, appoint a day on which the first election for the City of Sydney is to be held.

(2) The Minister may, by order published in the Gazette, appoint a day on which the first election for the City of South Sydney is to be held.

**Conduct of first elections**

26. The Electoral Commissioner shall, under section 70 of the Principal Act, conduct the first elections for the City of Sydney and the City of South Sydney.

**First elections to be treated as ordinary elections**

27. The first elections for the City of Sydney and the City of South Sydney shall be taken to be ordinary elections under the Principal Act for the purposes of that and any other Act and of any instrument made under any Act.

**Application of Principal Act etc. to first elections**

28. The provisions relating to elections of the Principal Act and of the ordinances made under that Act in their application to the first elections for the City of Sydney and the City of South Sydney are subject to this Act and any proclamation under section 21 (1) of the Principal Act.

**Term of office of persons elected at first election**

29. A person elected to civic office at a first election takes office on the commencement of Part 2 and, subject to the Principal Act, continues in office until the office becomes vacant under section 33 (1) (b) of the Principal Act.

**First mayoral elections**

30. The first elections of the Lord Mayor of Sydney and the Mayor of South Sydney held after the date of assent to this Act shall be held within 3 weeks after the commencement of Part 2.

**PART 4—PLANNING IN THE CITY OF SYDNEY****Division 1—Preliminary****Definition**

**31.** In this Part—

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

- (a) development the estimated cost of which exceeds such amount as may be prescribed by the regulations; or
- (b) development the subject of a development application which, if unconditional consent were to be granted to the application, would not comply with a document prescribed for the purposes of this definition by the regulations; or
- (c) development by or on behalf of, or on land vested in, the Crown or a statutory body representing the Crown; or
- (d) development by or on behalf of, or on land vested in, the City Council; or
- (e) development which is prescribed by the regulations.

**Relationship of this Part to the Planning Act etc.**

**32. (1)** This Part and Schedule 1 shall be construed with, and as if they formed part of, the Planning Act.

**(2)** This Act does not affect the application of any provision of the Planning Act except to such extent (if any) as is necessary to give effect to the provisions of this Act.

**(3)** Until the amendments made by this Act to the Sydney Cove Redevelopment Authority Act 1968 take effect, nothing in this Part applies to development to which that Act applies.

**(4)** Until the amendments made by this Act to the Darling Harbour Authority Act 1984 take effect, nothing in this Part applies to development to which that Act applies.

**Division 2—Constitution of the Central Sydney Planning Committee****The Planning Committee**

**33. (1)** There is constituted by this Act a committee of the City Council to be known as the Central Sydney Planning Committee.

**(2)** The Planning Committee has the functions conferred or imposed on it by or under this or any other Act.

**(3)** A function exercised by the Planning Committee shall be taken to have been exercised by the City Council.

(4) The Planning Committee is not subject to the control or direction of the City Council and the City Council has no power to affect (by amendment or revocation or otherwise) a decision of the Planning Committee.

(5) Any difference arising between the City Council and the Planning Committee may be dealt with under section 654 of the Principal Act as if it were a difference between councils.

(6) The Planning Committee is, by virtue of this subsection, a corporation.

### **Members of the Planning Committee**

34. (1) The Planning Committee shall consist of 9 members, being—

- (a) the Lord Mayor of Sydney;
- (b) the Mayor of South Sydney;
- (c) 2 aldermen of the City of Sydney elected by the City Council;
- (d) the Director of Planning under the Planning Act; and
- (e) 4 qualified persons appointed by the Minister.

(2) A person is qualified for the purposes of subsection (1) (e) if the person has, in the opinion of the Minister, special knowledge or experience in architecture, building construction, civic design, heritage conservation, town planning, environmental planning, engineering, transport planning, tourism or the arts.

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

35. Schedule 1 has effect.

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

36. The Planning Committee is entitled—

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

### **Subcommittees**

37. (1) The Planning Committee may establish subcommittees to assist it in connection with the exercise of any of its functions.

(2) It does not matter that any or all of the members of a subcommittee are not members of the Planning Committee.



(3) The procedure for the calling of meetings of a subcommittee and for the conduct of business at those meetings shall be as determined by the Planning Committee or (subject to any determination of the Planning Committee) by the subcommittee.

#### **Delegation**

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

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

##### **Preparation of local environmental plans**

39. The Planning Committee has the exclusive right to exercise the functions of the City Council under Divisions 4 and 5 of Part 3 of the Planning Act.

##### **Determination etc. of development applications**

40. The Planning Committee has the exclusive right to exercise the functions of the City Council under Parts 4, 5, 6 and 8 of the Planning Act, and under any environmental planning instrument, in relation to the carrying out of major development.

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

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

(2) Where development referred to in subsection (1) is designated development, the Planning Committee shall comply with the provisions of section 84 of the Planning Act and with the provisions of subsection (1) concurrently.

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

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

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

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

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

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

43. (1) Without limiting the generality of section 90 (1) of the Planning Act, in determining a development application relating to the carrying out of major development, the Planning Committee shall take into consideration any representations made in relation to the development to which the development application relates in accordance with section 42 by a Minister or public authority within 40 days after a copy of the application was forwarded to that Minister or public authority.

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

#### **Validity of consents**

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

#### **Certain provisions of the Planning Act not to apply**

45. Sections 78-83 of the Planning Act do not apply to or in respect of major development.

### **Division 4—Other functions**

#### **Definition**

46. In this Division—

“authorisation” means—

(a) a consent, permission, approval, concurrence, licence, permit or other authority of; or

(b) the exercise of a function by,

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

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

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

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

48. (1) On receipt of the application, the Planning Committee shall decide which (if any) of the authorisations the Planning Committee proposes to deal with under this Division.

(2) The Planning Committee shall notify the applicant as soon as practicable of its decision.

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

49. (1) If the Planning Committee decides to deal with an authorisation under this Division, the Planning Committee shall—

- (a) notify the Minister or public authority concerned of its decision;
- (b) forward a copy of the development application to that Minister or public authority; and
- (c) require that Minister or public authority to finally determine the matter requiring the authorisation within such time as the Planning Committee may specify having regard to any law (other than this Act) governing the granting of the authorisation or the exercise of the function comprising the authorisation.

(2) The Planning Committee may, before or after the expiration of the time specified under this section, extend that time from time to time.

**Determination of matter by the Planning Committee**

50. (1) If the Minister or public authority concerned has not finally determined the matter requiring the authorisation within the time (or the extended time) specified by the Planning Committee, the Planning Committee may give notice to that Minister or public authority of the manner in which and the conditions (if any) subject to which the Planning Committee proposes to determine that matter in accordance with this Division.

(2) If, within 14 days after receipt of a notice under this section, the Minister or public authority concerned has not finally determined the matter, the Planning Committee may determine the matter.

(3) The Planning Committee shall determine any matter under this section as if it were the Minister or public authority concerned and its determination shall have effect in all respects as if it were a determination of that Minister or public authority.

(4) The Planning Committee may exercise any function of the Minister or public authority concerned in order to give effect to its determination and the exercise of the function shall have effect in all respects as if it were exercised by that Minister or public authority.

**Directions by the Minister**

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

**Regulations**

52. The regulations may make provision for or with respect to the following:

- (a) the form in which applications under this Division may be made;
- (b) the fees to be lodged with applications;
- (c) the determination of applications;
- (d) the recording of determinations;
- (e) the notification of the making of determinations;
- (f) the giving of effect to determinations;
- (g) the public availability of determinations.

**PART 5—MISCELLANEOUS****Amendment of certain Acts**

53. Each Act specified in Schedule 2 is amended as set out in that Schedule.

**Repeal of Local Government (City of Sydney Boundaries) Act 1981 No. 112**

54. On the commencement of Part 2, the Local Government (City of Sydney Boundaries) Act 1981 is repealed.

**Repeal of City of Sydney Act 1987 No. 12**

55. (1) On the commencement of Part 2, the City of Sydney Act 1987 is repealed.

(2) A person who, immediately before the commencement of Part 2, held office as a Commissioner under that Act—

- (a) ceases to hold office as such on that commencement; and
- (b) is not entitled to any remuneration or compensation because of the loss of that office.

**Rescission etc. of proclamations**

56. Section 647 of the Principal Act applies to a proclamation under or for the purposes of this Act in the same way as it applies to a proclamation under the Principal Act.

**Savings, transitional and other provisions**

57. Schedule 3 has effect.

**Regulations**

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

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**SCHEDULE 1—THE PLANNING COMMITTEE**

(Sec. 35)

**PART 1—MEMBERS****Definitions**

1. In this Schedule—

“appointed member” means a person referred to in section 34 (1) (e);

“elected member” means a person referred to in section 34 (1) (c).

**Elected members**

2. (1) An ordinary election of elected members shall be held at the same meeting of the City Council at which the ordinary election of the Lord Mayor of Sydney is held.

(2) The office of an elected member commences on the day of the member's election and becomes vacant on the day of the election of the member's successor or on the occurrence of an extraordinary vacancy.

(3) An extraordinary election of an elected member shall be held as soon as practicable after the extraordinary vacancy occurs.

(4) An elected member is eligible (if otherwise qualified) for re-election.

(5) The City Council may remove an elected member (other than a person who has been appointed under subclause (6) and who is not an alderman of the City of Sydney) at any time.

(6) If a person is not elected in accordance with this clause, the Minister may appoint any person to be an elected member and the person so appointed shall be taken to have been duly elected.

(7) If a person appointed by the Minister to be an elected member is not an alderman of the City of Sydney, the Minister may remove the person from office at any time.

**Chairperson**

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

**Alternate members**

4. (1) The Lord Mayor of Sydney may appoint an alderman of the City of Sydney who is not an elected member to be the alternate member for the Lord Mayor.

(2) The mayor of South Sydney may appoint an alderman of the City of South Sydney to be the alternate member for the Mayor.

(3) The Director of Planning may appoint an officer of the Department of Planning to be an alternate member for the Director.

*City of Sydney 1988*SCHEDULE 1—THE PLANNING COMMITTEE—*continued*

(4) The Minister may appoint a person to be an alternate member for an appointed member.

(5) A person may not be an alternate member for more than one member of the Planning Committee at the same time.

(6) An alternate member may only act in the office of the member for whom that alternate member is the alternate member during the illness or absence of the member and while so acting, the alternate member has, subject to clause 14, all the functions of the member and shall be taken to be the member.

**Term of office of appointed member**

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

**Remuneration of appointed member**

6. An appointed member is entitled to be paid from the general fund of the City Council such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the appointed member.

**Extraordinary vacancy in office of elected member**

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

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

**Vacancy in office of appointed member**

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

- (a) dies;
- (b) completes a term of office and is not re-appointed;
- (c) resigns the office by instrument in writing addressed to the Minister;
- (d) is removed from office by the Minister under this clause;
- (e) is absent from 4 consecutive meetings of the Planning Committee of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for having been absent from those meetings;
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (g) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or

*City of Sydney 1988*SCHEDULE 1—THE PLANNING COMMITTEE—*continued*

(h) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.

(2) The Minister may remove an appointed member from office at any time.

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

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

**Disclosure of pecuniary interests**

10. (1) Sections 46C, 46D, 46G and 46H of the Principal Act apply to and in respect of—

- (a) a member of the Planning Committee or a subcommittee of the Planning Committee; and
- (b) a meeting of the Planning Committee or such a subcommittee.

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

**Liability of members etc.**

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

**PART 2—PROCEDURE****General procedure**

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

**Quorum**

13. The quorum for a meeting of the Planning Committee is 5 members.

**Presiding member**

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

(2) The person presiding at any meeting of the Planning Committee has a deliberative vote only.

(3) The alternate member for the Lord Mayor of Sydney shall not preside at a meeting of the Planning Committee unless elected in accordance with this clause.

*City of Sydney 1988*SCHEDULE 1—THE PLANNING COMMITTEE—*continued***Voting**

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

**Application of Ordinance No. 1 (Council Meetings and General Business)**

16. Ordinance No. 1 under the Principal Act applies to and in respect of the members of the Planning Committee in the same way as it applies to and in respect of the members of a council, except in so far as provision is otherwise made by or under this Act.

**PART 3—GENERAL****Proof of certain matters not required**

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

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

**Authentication of documents**

18. A document requiring authentication by the Planning Committee may be sufficiently authenticated if signed by the Chairperson of the Planning Committee or the town clerk of the City of Sydney.

**SCHEDULE 2—AMENDMENT OF CERTAIN ACTS**

(Sec. 53)

**Darling Harbour Authority Act 1984 No. 103—****(1) Section 3 (Definitions)—****(a) Section 3 (1)—**

Omit the definitions of “control”, “development plan”, “existing use” and “permit”.

**(b) Section 3 (5)—**

Omit the subsection.

**(2) Section 9 (Objects of the Authority)—**

Omit “, carry out and control”, insert instead “and carry out”.

**(3) Section 10 (Functions of the Authority generally)—**

Omit section 10 (4).

**(4) Section 18 (Public roads within the Development Area)—**

Omit the section.

**(5) Section 23I (Construction and use of monorail)—**

At the end of the section, insert:



*City of Sydney 1988*SCHEDULE 2—AMENDMENT OF CERTAIN ACTS—*continued*

(5) This section does not apply to any part of the scheduled works which are of a different nature or which are to be constructed over a different course than the nature or course of the scheduled works at the commencement of this subsection.

(6) Section 23J (**Application of certain legislation**)—

After section 23J (1), insert:

(1A) Subsection (1) does not apply to any part of the scheduled works which are of a different nature or which are to be constructed over a different course than the nature or course of the scheduled works at the commencement of this subsection.

(7) Parts 4 (**Development Plans**) and 5 (**Development Control**)—

Omit the Parts.

(8) Section 49 (**Definition**)—

## (a) Section 49 (a) (ii)—

Omit “Act; and”, insert instead “Act.”.

## (b) Section 49 (b)—

Omit the paragraph.

(9) Section 51 (**Orders of the Court**)—

Section 51 (2), (3)—

Omit the subsections.

(10) Section 59 (**Application of certain legislation within Development Area**)—

Omit the section.

(11) Section 67 (**Regulations**)—

## (a) Section 67 (1) (f)–(i)—

Omit the paragraphs.

## (b) Section 67 (3)—

Omit the subsection.

**Electricity Act 1945 (1946 No. 13)**—

## (1) Schedule 5—

Insert, in alphabetical order, “South Sydney”.

## (2) Schedule 6—

After “Marrickville”, insert “South Sydney”.

**Local Government Act 1919 No 41**—(1) Section 25A (**Election of mayor or president by electors**)—

Section 25A (1) (a)—

Omit “the City of Sydney,”.

(2) Section 45 (**Inquiry**)—

Section 45 (2A)—

After section 45 (2), insert:

*City of Sydney 1988*SCHEDULE 2—AMENDMENT OF CERTAIN ACTS—*continued*

(2A) The court or any person so named shall not inquire into the correctness of any roll of electors used at an election, but shall assume that any such roll is correct.

**Sydney Cove Redevelopment Authority Act 1968 No. 56—**

(1) Sections 13–18—

Omit the sections.

(2) Section 19 (**General powers of Authority**)—

(a) Section 19 (1)—

Omit “and without limiting the generality of section 18,”.

(b) Section 19 (1) (b), (c), (e), (f)—

Omit the paragraphs.

(c) Section 19 (2), (3)—

Omit the subsections.

(3) Sections 24, 25—

Omit the sections.

**SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS**

(Sec. 57)

**PART 1—PRELIMINARY****Definitions**

1. In this Schedule—

“Commissioners” means the Commissioners appointed under the City of Sydney Act 1987;

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

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

**PART 2—STAFF ARRANGEMENTS****Appointment of town clerk of the City of South Sydney**

2. The Commissioners may, before the commencement of Part 2 of this Act, appoint and employ a person who, on that commencement, shall be taken to have been appointed and employed as town clerk of the City of South Sydney under section 88 of the Principal Act by the South Sydney Council.

**Acting town clerk of the City of South Sydney**

3. (1) If the Commissioners have not exercised their powers under clause 2 before the commencement of Part 2 of this Act, the person holding office as, or exercising the functions of, town clerk of the City of Sydney immediately before that commencement shall, on that commencement and until the South Sydney Council appoints and employs a town clerk under section 88 of the Principal Act, act as town clerk of the City of South Sydney.

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**SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—**  
*continued*

(2) The person referred to in subclause (1) while so acting has all the functions of, and shall be taken to be, the town clerk of the City of South Sydney.

(3) The person referred to in subclause (1), in respect of the period for which the person so acts, does not have any rights or entitlements to remuneration, allowances, superannuation or other payments or to leave as town clerk of the City of South Sydney.

**Arrangements for the transfer of existing employees**

4. (1) The Commissioners shall determine, in accordance with any directions of and subject to the approval of the Minister, the arrangements to be made for the transfer of existing employees to the service of the South Sydney Council and for such alterations (if any) to staffing arrangements within the City Council as may, in the opinion of the Commissioners, having regard to those transfers, be necessary or desirable.

(2) The arrangements (despite any other law, but subject to clauses 5 and 6) may—

(a) in relation to existing employees generally—

(i) determine amounts of remuneration for specified classes of existing employees; and

(ii) authorise the establishment of a voluntary retirement scheme and require the making of payments in accordance with that scheme; and

(iii) authorise the making of industrial agreements; and

(b) in relation to transferred employees—

(i) authorise and require the payment of money by the City Council to the South Sydney Council towards the remuneration and overheads of those employees for such period and in such circumstances as may be determined by the Commissioners or any other specified person; and

(ii) authorise and require the payment of money by the City Council to the South Sydney Council towards the leave and retirement benefits of those employees and provide for the administration of that money pending its payment.

(3) If the Commissioners do not determine those arrangements to the satisfaction of the Minister by such day as may be specified by the Minister, they may be determined by the Minister.

(4) The Governor may make a proclamation to take effect on or after the commencement of Part 2 of this Act embodying the arrangements.

(5) More than one such proclamation may be made.

(6) Any such proclamation has the force of law.

**Employment, remuneration etc. of transferred employees**

5. (1) On the commencement of Part 2 of this Act, in accordance with the arrangements determined under clause 4, an existing employee may be transferred to the service of the South Sydney Council and, if so transferred—

(a) shall become an employee of that council; and

(b) shall be taken to have been appointed and employed by that council under the Principal Act in such office (if any) of that council as may be specified in the arrangements.

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 SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—  
*continued*

(2) An existing employee so transferred who is not taken, under subclause (1) (b), to have been appointed and employed in a specified office shall, on that commencement and until otherwise directed by the South Sydney Council, continue to perform the duties which attached to the existing employee's employment before that commencement.

(3) The provisions of section 20c (2)–(4) and (6)–(8) of the Principal Act apply to and in respect of an existing employee transferred under this clause in the same way as those provisions apply to a person transferred under section 20c of the Principal Act.

**Continuation of remuneration and employment**

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

**PART 3—DIVISION OF ASSETS ETC.****Arrangements for the division of assets etc.**

7. (1) The Commissioners shall determine, in accordance with any directions of and subject to the approval of the Minister, the arrangements to be made for—

- (a) the apportionment of assets (including land and interests in land), rights, debts and liabilities of the City Council between it and the South Sydney Council; and
- (b) the handing over of books, documents, records and papers of the City Council to the South Sydney Council.

(2) The arrangements shall embody such measures as will facilitate the financial stability of the City of Sydney and the City of South Sydney and for that purpose, in addition to the matters referred to in subclause (1), may (despite any other law)—

- (a) authorise and require the payment of money by the City Council to or on behalf of the South Sydney Council for such purposes, for such periods and in such circumstances as the Commissioners or any other specified person may decide;
- (b) authorise and require the City Council to provide (or to assist in the provision of) services within the City of South Sydney either jointly with the South Sydney Council or otherwise for such periods and in such circumstances as the Commissioners or any other specified person may decide;
- (c) authorise the conduct or provision by the South Sydney Council (under a lease or otherwise and whether in accordance with section 519 of the Principal Act or otherwise) of facilities, undertakings and services of the City Council or within the City of Sydney for such periods and in such circumstances as the Commissioners or any other specified person may decide; and
- (d) make provision with respect to insurances, including workers' compensation insurance.

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**SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—**  
*continued*

(3) If the Commissioners do not determine those arrangements to the satisfaction of the Minister by such day as may be specified by the Minister, they may be determined by the Minister.

(4) The Governor may make a proclamation to take effect on or after the commencement of Part 2 of this Act embodying the arrangements.

(5) More than one such proclamation may be made.

(6) Any such proclamation has the force of law.

(7) Nothing in this clause limits or affects section 21 of the Principal Act.

**Vesting of assets etc.**

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

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

**PART 4—MAKING OF RATES ETC.****Making of rates and garbage removal charges for 1989**

9. (1) The Commissioners may, before 1 January 1989, do all such things as are necessary to make or extend—

- (a) general rates, special rates, local rates and loan rates for 1989 for the City of Sydney as constituted in accordance with this Act and the City of South Sydney as so constituted; and

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 SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—  
*continued*

- (b) charges for services to be supplied in 1989 by the councils of those areas for the removal of garbage.
- (2) A rate or charge so made or extended shall be taken to have been lawfully made or extended by the council of the area concerned.

**PART 5—PROVISIONS CONSEQUENTIAL ON THE AMENDMENT OF THE  
 DARLING HARBOUR AUTHORITY ACT 1984**
**Definitions**

10. (1) In this Part—

“appointed day” means the day on which this Part takes effect;

“Authority” means the Darling Harbour Authority;

“Authority Act” means the Darling Harbour Authority Act 1984;

“development plan” means a development plan within the meaning of the Authority Act, as in force immediately before the appointed day;

“permit” means a permit within the meaning of the Principal Act, as in force immediately before the appointed day.

(2) Words and expressions used in this Part have the same meanings as they have in the Planning Act.

**Development plans**

11. A development plan, as in force immediately before the appointed day, shall, subject to this Act and the Planning Act, continue in force after that day and shall be taken to be a local environmental plan.

**Draft development plans**

12. A draft development plan approved under section 25 of the Authority Act shall be taken to be a draft local environmental plan prepared by the Planning Committee in respect of which a certificate has been duly issued under section 65 of the Planning Act.

**Applications for permits**

13. (1) An application for a permit that was lodged, but has not been finally determined, before the appointed day shall continue to be dealt with in accordance with Part 5 of the Authority Act as if the Authority Act had not been amended by this Act.

(2) For the purposes of this clause, an application is not finally determined unless—

(a) a permit is granted or refused in respect of the application and no appeal is lodged within a period of 12 months from the date of granting or refusing the application;  
 or

(b) if an appeal is lodged within that period of 12 months—the appeal is withdrawn or finally disposed of.

**Development control**

14. (1) A provision of a development plan to the effect that specified development may be carried out without the necessity for a permit shall be taken to be a provision to the effect that that development may be carried out without the necessity for development consent.

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 SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—  
*continued*

(2) A provision of a development plan to the effect that specified development may not be carried out except with a permit shall be taken to be a provision to the effect that that development may not be carried out except with development consent.

**Permits**

15. (1) A permit granted under the Authority Act before the appointed day shall continue to have effect, in accordance with its terms, as if the Authority Act had not been amended by this Act.

(2) Notwithstanding subclause (1)—

(a) a permit shall lapse unless the development the subject of the permit is substantially commenced within 12 months after the day on which it took effect; and

(b) section 103 of the Planning Act has effect with respect to a permit.

**Construction of certain references**

16. On and from the appointed day, in any Act (other than this Act) or statutory instrument—

(a) a reference to Part 4 or 5 of the Authority Act, or to any provision of those Parts, shall be read as a reference to the corresponding Part or provision of the Planning Act; and

(b) a reference to a development plan shall be read as a reference to a local environmental plan under the Planning Act; and

(c) a reference to a permit shall be read as a reference to a development consent under the Planning Act.

**PART 6—PROVISIONS CONSEQUENTIAL ON THE AMENDMENT OF THE  
 SYDNEY COVE REDEVELOPMENT AUTHORITY ACT 1968**
**Definitions**

17. (1) In this Part—

“appointed day” means the day on which this Part takes effect;

“approved scheme” means the approved scheme within the meaning of the Authority Act, as in force immediately before the appointed day;

“Authority” means the Sydney Cove Redevelopment Authority;

“Authority Act” means the Sydney Cove Redevelopment Authority Act 1968.

(2) Words and expressions used in this Part have the same meanings as they have in the Planning Act.

**Approved scheme**

18. (1) The approved scheme, as in force immediately before the appointed day, shall, subject to this Act and the Planning Act, continue to have effect as if the Authority Act had not been amended by this Act.

(2) The approved scheme may be amended or repealed by an environmental planning instrument.

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**SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—**  
*continued*

(3) The functions that were exercisable by the Authority under the approved scheme shall be exercised by the Planning Committee instead.

**Applications for consent**

19. An application for consent under the approved scheme shall be dealt with by the Planning Committee.

**Appeals**

20. An appeal against a decision of the Authority in relation to an application for consent under the approved scheme shall be heard and determined as if the Authority Act had not been amended by this Act.

**Consents under the approved scheme**

21. (1) A consent under the approved scheme has effect as if the Authority Act had not been amended by this Act.

(2) Notwithstanding subclause (1)—

- (a) a consent under the approved scheme shall lapse unless the development the subject of the consent is substantially commenced within 12 months after the day on which it took effect; and
- (b) section 103 of the Planning Act has effect with respect to a consent under the approved scheme.

**PART 7—MISCELLANEOUS****Application of statutory instruments**

22. A statutory instrument that applied to the City of Sydney, as constituted immediately before the commencement of Part 2 of this Act, shall (subject to this Act) continue, on and after that commencement, to apply to the City of Sydney and the City of South Sydney, as constituted by this Act, until varied, amended or repealed.

**Alteration of name**

23. Despite this Act, the Governor may, under the Principal Act, alter the name of the City of South Sydney.

**Exercise of Commissioners' functions**

24. (1) The Minister may, after the day on which the Commissioners cease to hold office, exercise any function under this Act which could have been exercised by the Commissioners while in office.

(2) The Minister shall not exercise any function under this clause after the expiration of 30 days after the commencement of Part 2 of this Act.

**Effect of proclamations under s. 21 (1) of the Principal Act**

25. (1) Without limiting section 21 (1) of the Principal Act, a proclamation under that subsection may provide—

- (a) that specified provisions of the Principal Act or the ordinances made under that Act apply or do not apply to or in relation to any matter or thing authorised or required to be done under this Act; and



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 SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—  
*continued*

- (b) where specified provisions of that Act or those ordinances are applied under paragraph (a), that they so apply with specified modifications by way of omission from, addition to or partial substitution for those provisions; and
  - (c) whether or not specified provisions of that Act or those ordinances are applied under paragraph (a), that specified provisions additional to those of the Principal Act and the ordinances made under that Act apply to or in relation to any matter or thing authorised or required to be done under this Act.
- (2) A provision of a proclamation referred to in this section may—
- (a) apply generally or be limited in its application by reference to specified exceptions or factors; or
  - (b) apply differently according to different factors of a specified kind; or
  - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.

**Draft local environmental plans**

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

**Development applications**

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

**Validation**

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

**Regulations**

29. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent or a later day.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or

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SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—  
*continued*

- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.
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[*Minister's second reading speech made in—  
Legislative Assembly on 14 September 1988  
Legislative Council on 21 September 1988*]





## CITY OF SYDNEY BILL 1988

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The objects of this Bill are—

- (a) to provide for the constitution of the Cities of Sydney and South Sydney (the City of South Sydney being formed by taking land from within the present boundaries of the City of Sydney);
- (b) to provide for the holding of elections for the 2 cities;
- (c) to provide for the transfer of staff and the division of assets and liabilities on the constitution of the 2 cities;
- (d) to establish the Central Sydney Planning Committee which is to be—
  - (i) the body responsible for the making of local environmental plans for the City of Sydney;
  - (ii) the consent authority under environmental planning law for determining applications to carry out major development within the City of Sydney; and
  - (iii) a body to facilitate the granting of authorisations by other bodies and persons which may be necessary in order to carry out major development within the City of Sydney and which may itself, in certain circumstances, grant those authorisations,and which will also take over, on a future date, certain planning functions of the Sydney Cove Redevelopment Authority and the Darling Harbour Authority; and
- (e) to provide for associated matters.

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#### PART 1—PRELIMINARY

**Clause 1** specifies the short title of the proposed Act.

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

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**Clause 3** provides for the Local Government Act 1919 to be referred to in the proposed Act as the Principal Act. The proposed Act (Part 4 and Schedule 1 excepted) is to be construed with, and as if it formed part of, the Principal Act but is to prevail over the Principal Act in the event of an inconsistency.

**Clause 4** defines certain expressions used in the proposed Act.

**PART 2—CONSTITUTION OF THE CITIES OF SYDNEY AND SOUTH SYDNEY**

**Division 1—City of Sydney**

**Clause 5** provides that the boundaries of the City of Sydney are to be altered by taking land from the City of Sydney, that land to be described in a proclamation.

**Clause 6** provides that the City of Sydney is not to be divided into wards.

**Clause 7** provides that the City Council is to have 7 aldermen.

**Clause 8** provides for the election of the Lord Mayor of Sydney by the aldermen instead of by the electors for the City Council.

**Division 2—City of South Sydney**

**Clause 9** constitutes the City of South Sydney and provides that its boundaries are to be described in the proclamation under clause 5.

**Clause 10** enables the division of the City of South Sydney into wards under the Principal Act.

**Clause 11** provides that the South Sydney Council is to have 9 aldermen.

**Clause 12** provides for the election of the Mayor of South Sydney by the aldermen instead of by the electors for the South Sydney Council.

**PART 3—ELECTIONS**

**Division 1—Enrolment for elections for the City Council**

**Clause 13** defines certain expressions for the purposes of the proposed Division. Among the expressions defined are those which identify the categories of electors for the City Council, namely, "owner", "ratepaying lessee", "occupier" and "resident".

**Clause 14** provides that, in place of the qualifications for electors that could otherwise apply under the Principal Act, a person has the requisite qualification of an elector for the City of Sydney if the person is—

- (a) an owner, ratepaying lessee or occupier (whether separately or as joint tenants or tenants in common) of ratable land in the City of Sydney; or
- (b) a resident of the City of Sydney.

**Clause 15** provides that if a corporation is the owner, ratepaying lessee or occupier, one natural person nominated by the corporation shall be taken to have the requisite qualification of an elector in the place of the corporation and that if the corporation fails to nominate a person, the secretary of the corporation shall be taken to have been nominated. Where the same person, or group, has a requisite qualification in respect of more than one parcel of ratable land, those parcels are to be taken to be a single parcel. A resident is to be taken not to have a requisite qualification in any other capacity.

**Clause 16** provides that of the 2 rolls which together comprise the roll of electors—

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- (a) the non-residential roll is to be the roll prepared under clause 18 of owners, ratepaying lessees and occupiers; and
- (b) the residential roll is to consist of persons who are residents of the City of Sydney.

**Clause 17** requires the town clerk of the City of Sydney to keep an up-to-date list of persons entitled to vote as owners, ratepaying lessees or occupiers, whether or not they lodge a claim for inclusion in the list. The clause provides for the public inspection of the list and the determination of objections to the inclusion of particulars in the list.

**Clause 18** requires the town clerk, after the closing date for an election, to certify the list kept under clause 17 to be an accurate and complete list of persons entitled to vote as owners, ratepaying lessees or occupiers. On its certification, the list becomes the non-residential roll of electors for the election.

**Division 2—Voting at elections for the City Council**

**Clause 19** enables a person who is qualified to vote, whether as a resident or non-resident, but whose name is not on the roll of electors, to vote in accordance with the procedure under section 56A of the Principal Act.

**Clause 20** enables the secretary of a corporation to be included in the list kept under clause 17 and the non-residential roll certified under clause 18 by reference to the secretary's office rather than by name and address and enables the secretary to vote in an election on the making of a statutory declaration.

**Clause 21** makes it compulsory for a person who is entitled to vote to record his or her vote. The clause also provides that if, under the Principal Act, voting in a poll is compulsory, a person who is entitled to vote at an election must record his or her vote at the poll.

**Division 3—First elections for Cities of Sydney and South Sydney**

**Clause 22** defines "first election", in relation to the Cities of Sydney and South Sydney, to mean the first election of aldermen for the respective cities held after the date of assent to the proposed Act.

**Clause 23** makes provision for the preparation of rolls of electors for the first elections.

**Clause 24** provides for the Minister administering this Part of the proposed Act to appoint a day or different days for the first elections.

**Clause 25** requires the Electoral Commissioner to conduct the first elections.

**Clause 26** provides that the first elections are to be treated as ordinary elections for the purposes of any Act or statutory instrument.

**Clause 27** subordinates the provisions of the Principal Act in their application to the first elections to the provisions of the proposed Act and any proclamation which may be made under section 21 (1) of the Principal Act.

**Clause 28** determines the term of office of a person elected at a first election so that subsequent elections for the Cities of Sydney and South Sydney will not get out of step with other local government elections.

**Clause 29** determines the period within which the first mayoral elections are to be held.

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**PART 4—PLANNING IN THE CITY OF SYDNEY****Division 1—Preliminary**

**Clause 30** defines “major development” for the purposes of the proposed Part. Major development is to comprise development in the City of Sydney—

- (a) the estimated cost of which exceeds the amount prescribed by the regulations under the proposed Act; or
- (b) which, if granted unconditional consent, would not comply with any document prescribed by the regulations; or
- (c) which is Crown development or development on Crown land; or
- (d) which is City Council development or development on City Council land; or
- (e) which is prescribed by the regulations.

**Clause 31** provides that the proposed Part is to be construed with, and as if it formed part of, the Environmental Planning and Assessment Act 1979 but is to prevail over that Act in the event of an inconsistency. The clause also provides that until the amendments made by the proposed Act to the Sydney Cove Redevelopment Authority Act 1968 and the Darling Harbour Authority Act 1984 take effect, nothing in the proposed Part applies to development to which those Acts apply.

**Division 2—Constitution of the Central Sydney Planning Committee**

**Clause 32** constitutes the Central Sydney Planning Committee as a committee of the City Council and provides generally for its functions. A function exercised by the Planning Committee is to be taken to have been exercised by the City Council but the Planning Committee is not subject to the control or direction of the City Council. The Planning Committee is constituted as a corporation.

**Clause 33** provides that the Planning Committee is to have 7 members. They are to be the Lord Mayor and 2 aldermen of the City of Sydney, the Director of Planning and 3 persons appointed by the Minister.

**Clause 34** gives effect to Schedule 1 which contains provisions relating to the members and procedure of, and other matters concerning, the Planning Committee.

**Clause 35** enables the Planning Committee to have access to the records of the City Council and the use of the staff and facilities of the City Council.

**Clause 36** enables the Planning Committee to establish subcommittees.

**Clause 37** enables the Planning Committee, with the approval of the Minister, to delegate its functions.

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

**Clause 38** gives to the Planning Committee, to the exclusion of the City Council, the powers that the City Council would otherwise have to prepare local environmental plans.

**Clause 39** gives to the Planning Committee, to the exclusion of the City Council, the functions that the City Council would otherwise have in respect of proposals to carry out major development.

**Clause 40** provides that if, under an environmental planning instrument, development consent could not be granted without the concurrence of a person other than the City Council, the Planning Committee is to forward a copy of the development application to the person.



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**Clause 41** prevents a person referred to in clause 40 from granting the concurrence but enables the person to make representations to the Planning Committee concerning the development.

**Clause 42** requires the Planning Committee, in determining a development application for the carrying out of major development to have regard to any representations made under clause 41 within 40 days.

**Clause 43** validates a development consent given by the Planning Committee despite a failure to comply with clauses 40-42.

**Clause 44** provides that sections 78-83 of the Environmental Planning and Assessment Act 1979 are not to apply to major development.

**Division 4—Other functions**

**Clause 45** defines the term "authorisation" for the purposes of the proposed Division to include a consent, licence and other authority of, or the exercise of a function by, a Minister or public authority (not being a court).

**Clause 46** enables an applicant to nominate in an application for consent to carry out major development any authorisations the applicant requires in order to carry out the development.

**Clause 47** requires the Planning Committee, on receipt of the application, to decide which (if any) of the authorisations it proposes to deal with under the proposed Division.

**Clause 48** requires the Planning Committee, if it decides to deal with an authorisation under the proposed Division, to notify the Minister or public authority concerned of its decision, to forward a copy of the development application to that Minister or public authority and to require that Minister or public authority to finally determine the matter requiring the authorisation within the time specified by the Planning Committee.

**Clause 49** provides that if the Minister or public authority concerned has not finally determined the matter requiring the authorisation within the time specified by the Planning Committee, it may give notice to that Minister or public authority of the manner in which it proposes to determine the matter in accordance with the proposed Division. The Planning Committee may determine the matter if it is not finally determined by the Minister or public authority within 14 days after the notice and its determination is to have effect in all respects as if it were a determination of that Minister or public authority.

**Clause 50** enables the Minister administering the proposed Division to direct the Planning Committee not to exercise a function under the proposed Division.

**Clause 51** enables the regulations made under clause 57 to provide for various matters relating to the operation of the proposed Division.

**PART 5—MISCELLANEOUS**

**Clause 52** gives effect to a Schedule of amendments made to various Acts as a consequence of the enactment of the proposed Act.

**Clause 53** repeals the Local Government (City of Sydney Boundaries) Act 1981.

**Clause 54** repeals the City of Sydney Act 1987.

**Clause 55** enables the amendment and revocation of proclamations made for the purposes of the proposed Act.

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**Clause 56** gives effect to a Schedule of savings, transitional and other provisions.

**Clause 57** enables the making of regulations for the purposes of the proposed Act.

## SCHEDULE 1—THE PLANNING COMMITTEE

### PART 1—MEMBERS

**Part 1** (clauses 1–12) contains provisions relating to the election and appointment of members of the Planning Committee (and their alternates) and the terms and conditions on which they hold office.

### PART 2—PROCEDURE

**Part 2** (clauses 13–17) contains provisions relating to the procedure of the Planning Committee. In particular, the Part provides for the presiding member of the Planning Committee to have a deliberative vote only and for the general application of Ordinance No. 1 (Council Meetings and General Business) under the Principal Act to meetings of the Planning Committee.

### PART 3—GENERAL

**Part 3** (clauses 18, 19) contains a presumption of regularity concerning the constitution and proceedings of the Planning Committee and provision for the authentication of its documents.

## SCHEDULE 2—AMENDMENT OF CERTAIN ACTS

**Schedule 2** contains amendments to certain Acts.

The amendments to the **Darling Harbour Authority Act 1984** remove from the Darling Harbour Authority its functions with respect to the making and amendment of development plans and the control of development with a view to transferring those functions at some time in the future to the Planning Committee.

The amendments to the **Electricity Act 1945** place the City of South Sydney in the Fifth Constituency of the Sydney County District for the purpose of electing delegates to the Sydney County Council.

The amendments to the **Local Government Act 1919** provide for the election of the Lord Mayor of Sydney by the aldermen of the City of Sydney rather than by the general electorate and create a presumption as to the correctness of any roll of electors used at any election.

The amendments to the **Sydney Cove Redevelopment Authority Act 1968** remove from the Sydney Cove Redevelopment Authority its functions with respect to the approved planning scheme under that Act and certain development control functions with a view to transferring those functions at some time in the future to the Planning Committee.

## SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

### PART 1—PRELIMINARY

**Part 1** (clause 1) defines certain terms for the purposes of the proposed Schedule. "Commissioners" means the Commissioners appointed under the City of Sydney Act 1987. "Existing employee" means an employee of the City Council immediately before the constitution of the City of South Sydney. "Transferred employee" means an existing employee who is transferred to the service of the South Sydney Council.

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**PART 2—STAFF ARRANGEMENTS**

**Part 2** (clauses 2–6) contains provisions relating to the transfer of staff of the City Council to the South Sydney Council. The Commissioners are empowered to appoint a town clerk of the City of South Sydney but, if such an appointment is not made and until an appointment is made by the South Sydney Council, the town clerk of the City of Sydney is to act in that office.

The Commissioners are also empowered to determine the arrangements for the transfer of existing employees to the service of the South Sydney Council. The arrangements are not to cause existing employees to be remunerated on terms which are less advantageous than those currently applying to them and no existing employee is to have his or her employment terminated on the ground of redundancy arising from the operation of the proposed Act.

**PART 3—DIVISION OF ASSETS ETC.**

**Part 3** (clauses 7, 8) empowers the Commissioners to make arrangements for the apportionment of the assets and liabilities of the City Council between it and the South Sydney Council. The arrangements are to embody such measures as will facilitate the financial stability of the 2 cities.

**PART 4—MAKING OF RATES ETC.**

**Part 4** (clause 9) empowers the Commissioners to determine rates and garbage collection charges for 1989 for the 2 cities.

**PART 5—PROVISIONS CONSEQUENT ON THE AMENDMENT OF THE DARLING HARBOUR AUTHORITY ACT 1984**

**Part 5** (clauses 10–16) provides for the taking over by the Planning Committee of the environmental planning and development control functions of the Darling Harbour Authority.

**PART 6—PROVISIONS CONSEQUENT ON THE AMENDMENT OF THE SYDNEY COVE REDEVELOPMENT AUTHORITY ACT 1968**

**Part 6** (clauses 17–21) provides for the taking over by the Planning Committee of the environmental planning and development control functions of the Sydney Cove Redevelopment Authority.

**PART 7—MISCELLANEOUS**

**Part 7** (clauses 22–29) provides for—

- (a) the continuing application of certain statutory instruments after the creation of the City of South Sydney (clause 22);
- (b) the ability to alter the name of the City of South Sydney (clause 23);
- (c) the exercise by the Minister of any function of the Commissioners under the proposed Act after they have ceased to hold office (clause 24);
- (d) the modification, for the purposes of the proposed Act, of provisions of the Principal Act and ordinances by proclamations under section 21 (1) of the Principal Act (clause 25);
- (e) the assumption of responsibility by the Planning Committee for draft local environmental plans and development applications for major development (clauses 26, 27);

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- (f) the validation of certain matters (clause 28); and
  - (g) the making of regulations containing other provisions of a savings or transitional nature (clause 29).
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# CITY OF SYDNEY BILL 1988

## NEW SOUTH WALES



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# CITY OF SYDNEY BILL 1988

NEW SOUTH WALES



No. , 1988

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## A BILL FOR

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

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*City of Sydney 1988***The Legislature of New South Wales enacts:****PART 1—PRELIMINARY****Short title**

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

**5 Commencement**

2. (1) Subject to this section, this Act commences on a day or days to be appointed by proclamation.

(2) Sections 1 and 2 commence on the date of assent.

(3) For the purposes only of enabling the Council of the City of Sydney and the Council of the City of South Sydney to be constituted in accordance with this Act on or after (but not before) the commencement of Part 2—

(a) elections may be held under this Act; and

(b) any other act, matter or thing may be done,

before that commencement as if the whole of this Act commenced on the date of assent, but so that no person takes office before that commencement as a result of such an election.

**Principal Act**

3. (1) The Local Government Act 1919 is referred to in this Act as the Principal Act.

20 (2) This Act (Part 4 and Schedule 1 excepted) shall be construed with, and as if it formed part of, the Principal Act.

(3) In the event of an inconsistency between this Act and the Principal Act, this Act shall prevail to the extent of the inconsistency.

**Definitions**

25 4. (1) In this Act—

“City Council” means the Council of the City of Sydney;

“Planning Act” means the Environmental Planning and Assessment Act 1979;

30 “Planning Committee” means the Central City Planning Committee constituted by this Act;

“South Sydney Council” means the Council of the City of South Sydney.

(2) In this Act—

(a) a reference to a function includes a reference to a power, authority and duty; and

35 (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

**PART 2—CONSTITUTION OF THE CITIES OF SYDNEY AND  
SOUTH SYDNEY**

**Division 1—City of Sydney**

**Boundaries of City of Sydney**

- 5    **5. (1)** The boundaries of the City of Sydney are altered by taking from it the land described in a proclamation made for the purposes of this subsection.
- (2)** The alteration shall be taken to have been effected by a proclamation under section 16 of the Principal Act.
- 10   **(3)** The resulting boundaries of the City of Sydney shall be as described in a proclamation made for the purposes of this subsection.
- (4)** Section 19 of the Principal Act does not apply to or in respect of a proclamation made for the purposes of subsection (1) or (3).
- 15   **(5)** Section 18 of the Principal Act does not apply to the City of Sydney when altered under this Act or the Principal Act.

**Absence of wards**

6.   **(1)** The City of Sydney shall not be divided into wards.
- (2)** Any division into wards of the City of Sydney before the commencement of this Part is abolished.

20 **Number of aldermen**

7.   **(1)** The City Council shall have 7 aldermen.
- (2)** The number of aldermen may however be altered under section 23 of the Principal Act.

**Election of Lord Mayor**

- 25   **8.** Section 25A of the Principal Act does not apply to the City of Sydney.

**Division 2—City of South Sydney**

**Constitution of City of South Sydney**

9.   **(1)** There is constituted by this section a City of South Sydney, with boundaries as described in the proclamation under section 5 (1).
- 30   **(2)** The constitution by this section of the City of South Sydney shall be taken to have been effected by a proclamation under section 16 of the Principal Act.

**Division into wards**

- 35   **10. (1)** The City of South Sydney may be divided into wards under section 58 of the Principal Act.

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(2) Section 58 (3) of the Principal Act does not apply to the initial division into wards.

**Number of aldermen**

11. (1) The South Sydney Council shall have 9 aldermen.

5 (2) The number of aldermen may however be altered under section 23 of the Principal Act.

**Election of Mayor**

12. Section 25A of the Principal Act does not apply to the City of South Sydney.

**PART 3—ELECTIONS****Division 1—Enrolment for elections for the City Council****Definitions**

13. (1) For the purposes of this Division—

(a) “owner” means—

15 (i) a joint or several owner of ratable land; and

(ii) the holder or resident manager of a lease, promise or contract of lease from the Crown of ratable Crown land,

but does not include—

20 (iii) a lessee of ratable land (not being Crown land) or a person who merely occupies any such ratable land under a licence or other agreement; or

(iv) where ratable land is held on trust, a beneficiary under the trust;

25 (b) “ratepaying lessee” means a person who has been continuously, during the period of 3 months preceding the relevant date, the lessee (whether jointly or severally) of ratable land and who is liable, under a lease in writing or other document of title relating to the land, to pay to any person the whole or any part of any local government rates which may be made or levied in respect of the land;

30 (c) “occupier” means, subject to subsections (2) and (3), a person who has been continuously, during the period of 3 months preceding the relevant date, in actual occupation of ratable land (jointly or severally, but not as owner or ratepaying lessee) where the annual amount payable by the person (or by the person together with another person or other persons) for the right to that occupation is  
35 at least \$5,000 (or, if the regulations prescribe a greater amount, the greater amount so prescribed);

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- (d) "resident" means a person who is, on the relevant date, enrolled, within the meaning of the Parliamentary Electorates and Elections Act 1912, on the roll for any electoral district and whose place of living as described on that roll is within the City of Sydney;
- 5 (e) "ratable land" includes all land on which any rate is leviable or levied under the Principal Act, but does not include land comprised solely of a lot in a strata plan within the meaning of the Strata Titles Act 1973 or the Strata Titles (Leasehold) Act 1986, being a lot designed, constructed or used solely or principally for the parking of
- 10 a motor vehicle;
- (f) "relevant date" means, for the purposes of determining—
- (i) whether or not a person is entitled to have the person's name placed—
- (A) on the list referred to in section 17—the date on which the
- 15 determination is made; or
- (B) on a residential roll of electors—the date on which the claim for enrolment is made; or
- (ii) whether a person is entitled to vote at an election—the date prescribed under the Principal Act for the closing of the
- 20 residential roll for the election; and
- (g) "joint" and "jointly", in relation to owning, holding or occupying land, includes owning, holding or occupying in common.

(2) If the annual amount payable for the joint occupation of any ratable land exceeds \$5,000 (or the greater amount prescribed for the purposes of

25 subsection (1) (c)), the maximum number of occupiers of that ratable land for the purposes of subsection (1) (c) is the number obtained by dividing the annual amount so payable by 5,000 (or an amount equivalent to the greater amount prescribed) ignoring any remainder.

(3) If, because of the operation of subsection (2), it is necessary to choose

30 the persons with the requisite qualifications as electors from among a number of joint occupiers, the choice shall be made—

- (a) in accordance with a written nomination signed by the majority of those occupiers; or
- 35 (b) if no such nomination is made, by the town clerk of the City of Sydney having regard to the alphabetical order of the surnames of the occupiers or on such other basis as the town clerk considers appropriate in the circumstances of the case.

**Requisite qualification of an elector**

14. (1) In order to have the requisite qualification of an elector in

40 respect of the City of Sydney for the purposes of Part 5 of the Principal Act, a person must be either—

(a) an owner, ratepaying lessee or occupier of ratable land in the City of Sydney; or

(b) a resident of the City of Sydney.

(2) Sections 51–54 of the Principal Act do not apply to the City of Sydney.

#### **Provisions relating to qualification of electors**

15 **15. (1)** If a corporation is the owner, ratepaying lessee or occupier of ratable land, one natural person nominated in writing by the corporation as elector shall be taken to have the requisite qualification of an elector instead of the corporation.

(2) If a corporation fails to nominate a person as an elector under this section, the secretary of the corporation shall be taken to be nominated until a nomination is made.

15 (3) If the same person or group of persons is the owner, ratepaying lessee or occupier of 2 or more parcels of ratable land (whether in one or more of those capacities), all those parcels shall be taken to be a single parcel of land for the purposes of this section and (if applicable) to be held by the person or group in only one of those capacities.

20 (4) If a person has the requisite qualification of an elector as a resident of the City of Sydney, the person shall be taken not to have the requisite qualification of an elector in any other capacity.

(5) In this section, a reference to a person does not exclude a reference to a corporation merely because elsewhere in this section there is particular reference to a corporation.

#### **25 Roll of electors**

**16.** In the application of Division 4 of Part 5 of the Principal Act to an election for the City of Sydney—

30 (a) a reference in that Division to the non-residential roll shall be read as a reference to the roll prepared by the town clerk of the City of Sydney under section 18 of persons qualified under section 14 (1) (a) to be electors; and

35 (b) a reference in that Division to persons qualified under section 51 (1) (b) of the Principal Act to be electors in connection with the residential roll shall be read as a reference to persons qualified under section 14 (1) (b) to be electors.

#### **List of electors for compulsory enrolment on non-residential roll**

40 **17. (1)** The town clerk of the City of Sydney shall keep and continuously maintain up to date a list of persons who, in the opinion of the clerk, have the requisite qualifications under section 14 (1) (a) to be electors in respect of the City of Sydney.

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(2) A person who is disqualified to be an elector under section 55 of the Principal Act is not entitled to have the person's name placed on the list.

(3) The list may be inspected at the office of the City Council at any reasonable time during office hours by any person.

5 (4) A person may, at any time, lodge with the town clerk—

(a) a claim to have the person's name included in the list or to have any particulars shown on the list against the person's name amended; or

10 (b) an objection to the inclusion of the person's name or the name of any other person in the list or to any of the particulars shown against the person's name or the name of that or any other person.

(5) The town clerk shall, within the prescribed time after the claim or objection is lodged, consider it and may allow or disallow it.

(6) The town clerk shall—

15 (a) after determining any claim or objection, serve by post notice of the town clerk's determination on the claimant or objector and, in the case of an objection, any other person in respect of whom the objection was made; and

20 (b) make the appropriate entry in, or alteration of, the list to give effect to the determination.

(7) If any claimant, objector or person in respect of whom an objection was made is dissatisfied with the determination made by the town clerk, the person may appeal, in the manner prescribed, to the Local Court nearest to the principal office of the City Council and the town clerk shall make the  
25 appropriate entry in, or alteration of, the list to give effect to the decision of the Court on the appeal.

(8) Until the regulations under this Act otherwise provide—

30 (a) the time prescribed for the purposes of subsection (5) shall be the time prescribed for the purposes of section 65 (6) of the Principal Act; and

(b) the manner prescribed for the purposes of subsection (7) shall be the manner prescribed for the purposes of section 65 (7) of the Principal Act.

#### **Non-residential roll**

35 18. (1) After the closing date for the election, the town clerk of the City of Sydney shall, after dealing, in accordance with section 17 (5) and (6), with any claim or objection received in the office of the City Council on or before that date but not then determined, certify in writing the list under section  
40 17 of the persons who had, on that date, the requisite qualifications under section 14 (1) (a) to be electors in respect of the City of Sydney.

(2) The list certified under subsection (1) shall be the non-residential roll of electors for the election.

(3) The non-residential roll shall not be altered between the closing date for an election and the end of the day on which the election is held.

5 (4) Section 65A of the Principal Act (Non-residential roll) does not apply to the City of Sydney.

(5) In this section—

“closing date”, in relation to an election, means the date prescribed under the Principal Act for the closing of the residential roll for the election.

## 10 **Division 2—Voting at elections for the City Council**

### **Voting by electors not enrolled**

19. Section 56A of the Principal Act applies to all persons who claim to be entitled to vote at an election for the City of Sydney, and not merely to residents.

## 15 **Voting where secretary of corporation enrolled as elector**

20. (1) If—

(a) the secretary of a corporation has the requisite qualification of an elector pursuant to section 15 (2) because the corporation has failed to nominate a person as an elector; and

20 (b) the town clerk of the City of Sydney is unable to readily ascertain the name and address of the secretary,

the secretary may be included in the list under section 17 and the non-residential roll for the election as the secretary of the corporation concerned without specifying the person's name and address.

25 (2) A person who purports to vote at the election as the secretary of that corporation may do so only if the person signs and delivers to the relevant electoral official a statutory declaration which—

(a) states the person's name and address;

30 (b) declares that the person is the secretary of the corporation or a person who has been authorised by the corporation to vote on behalf of the corporation at the election; and

(c) declares that the person does not have a requisite qualification of an elector in any other capacity.

### **Compulsory voting at elections and polls**

35 21. (1) A person who is entitled to vote at an election of aldermen for the City of Sydney shall record his or her vote at the election.

(2) In the application of sections 74B–74F of the Principal Act (Compulsory voting) to any such election—



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- (a) a reference in those sections to section 74A shall be read as a reference to this section; and
- (b) a reference in those sections to a resident shall be read as including a reference to a person included on the non-residential roll for the election; and
- 5 (c) a reference in those sections to the residential roll shall be read as including a reference to the non-residential roll for the election.

(3) In the application of section 82A of the Principal Act (Compulsory voting at certain polls) to a poll in the City of Sydney, a reference in that section to persons whose place of living is in the area or part of an area in which the poll is taken shall be read as a reference to all persons who have the requisite qualification as electors in respect of the City of Sydney in relation to that area or part.

**Division 3—First elections for Cities of Sydney and South Sydney****15 Definition**

22. In this Division—

“first election” means—

- (a) in relation to the City of Sydney—the first election of aldermen for the City of Sydney held after the date of assent to this Act; and
- 20 (b) in relation to the City of South Sydney—the first election of aldermen for the City of South Sydney held after the date of assent to this Act.

**Preparation of rolls**

23. (1) Rolls of electors for the first elections shall be prepared in accordance with this Act and the Principal Act.

(2) The town clerk of the City of Sydney has the functions of the town clerk of the City of South Sydney for the purposes of the preparation of the non-residential roll of electors for the first election for the City of South Sydney.

30

**Appointment of days for first elections**

24. (1) The Minister may, by order published in the Gazette, appoint a day on which the first election for the City of Sydney is to be held.

(2) The Minister may, by order published in the Gazette, appoint a day on which the first election for the City of South Sydney is to be held.

35

**Conduct of first elections**

25. The Electoral Commissioner shall, under section 70 of the Principal Act, conduct the first elections for the City of Sydney and the City of South Sydney.

**First elections to be treated as ordinary elections**

26. The first elections for the City of Sydney and the City of South Sydney shall be taken to be ordinary elections under the Principal Act for the purposes of that and any other Act and of any instrument made under  
5 any Act.

**Application of Principal Act etc. to first elections**

27. The provisions relating to elections of the Principal Act and of the ordinances made under that Act in their application to the first elections for the City of Sydney and the City of South Sydney are subject to this Act  
10 and any proclamation under section 21 (1) of the Principal Act.

**Term of office of persons elected at first election**

28. A person elected to civic office at a first election takes office on the commencement of Part 2 and, subject to the Principal Act, continues in office until the office becomes vacant under section 33 (1) (b) of the Principal  
15 Act.

**First mayoral elections**

29. The first elections of the Lord Mayor of Sydney and the Mayor of South Sydney held after the date of assent to this Act shall be held within 3 weeks after the commencement of Part 2.

20 **PART 4—PLANNING IN THE CITY OF SYDNEY**

**Division 1—Preliminary****Definition**

30. In this Part—

- 25 “major development” means development carried out or proposed to be carried out on land within or partly within the City of Sydney, being—
- (a) development the estimated cost of which exceeds such amount as may be prescribed by the regulations; or
  - (b) development the subject of a development application which, if unconditional consent were to be granted to the application, would  
30 not comply with a document prescribed for the purposes of this definition by the regulations; or
  - (c) development by or on behalf of, or on land vested in, the Crown or a statutory body representing the Crown; or
  - (d) development by or on behalf of, or on land vested in, the City  
35 Council; or
  - (e) development which is prescribed by the regulations.

**Relationship of this Part to the Planning Act etc.**

31. (1) This Part and Schedule 1 shall be construed with, and as if they formed part of, the Planning Act.

5 (2) In the event of an inconsistency between this Part and Schedule 1, and the Planning Act, this Part and Schedule 1 shall prevail to the extent of the inconsistency.

(3) Until the amendments made by this Act to the Sydney Cove Redevelopment Authority Act 1968 take effect, nothing in this Part applies to development to which that Act applies.

10 (4) Until the amendments made by this Act to the Darling Harbour Authority Act 1984 take effect, nothing in this Part applies to development to which that Act applies.

**Division 2—Constitution of the Central Sydney Planning Committee****The Planning Committee**

15 32. (1) There is constituted by this Act a committee of the City Council to be known as the Central Sydney Planning Committee.

(2) The Planning Committee has the functions conferred or imposed on it by or under this or any other Act.

20 (3) A function exercised by the Planning Committee shall be taken to have been exercised by the City Council.

(4) The Planning Committee is not subject to the control or direction of the City Council and the City Council has no power to affect (by amendment or revocation or otherwise) a decision of the Planning Committee.

25 (5) Any difference arising between the City Council and the Planning Committee may be dealt with under section 654 of the Principal Act as if it were a difference between councils.

(6) The Planning Committee is, by virtue of this subsection, a corporation.

**30 Members of the Planning Committee**

33. The Planning Committee shall consist of 7 members, being—

- (a) the Lord Mayor of Sydney;
- (b) 2 aldermen of the City of Sydney elected by the City Council;
- (c) the Director of Planning under the Planning Act; and
- 35 (d) 3 persons appointed by the Minister.

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

34. Schedule 1 has effect.

**Access to records etc. of City Council**

35. The Planning Committee is entitled—

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

**Subcommittees**

10 36. (1) The Planning Committee may establish subcommittees to assist it in connection with the exercise of any of its functions.

(2) It does not matter that any or all of the members of a subcommittee are not members of the Planning Committee.

15 (3) The procedure for the calling of meetings of a subcommittee and for the conduct of business at those meetings shall be as determined by the Planning Committee or (subject to any determination of the Planning Committee) by the subcommittee.

**Delegation**

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

20 **Division 3—Environmental planning functions of the Planning Committee**

**Preparation of local environmental plans**

38. The Planning Committee has the exclusive right to exercise the functions of the City Council under Divisions 4 and 5 of Part 3 of the Planning Act.

25 **Determination etc. of development applications**

39. The Planning Committee has the exclusive right to exercise the functions of the City Council under Parts 4, 5, 6 and 8 of the Planning Act, and under any environmental planning instrument, in relation to the carrying out of major development.

30 **Consultation with Minister or public authority**

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

(2) Where development referred to in subsection (1) is designated development, the Planning Committee shall comply with the provisions of section 84 of the Planning Act and with the provisions of subsection (1) concurrently.

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

41. (1) A Minister or public authority referred to in section 40 shall not grant or purport to grant a consent, permission, approval or concurrence so referred to but may, with respect to development the subject of a development application so referred to, make representations to the  
10 Planning Committee in relation to—

- (a) any matter which would, but for section 40, have been relevant to the granting of the Minister's or authority's consent, permission, approval or concurrence; and
- (b) the matters stated pursuant to section 30 (3) of the Planning Act and  
15 applicable in relation to the development application.

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

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

42. (1) Without limiting the generality of section 90 (1) of the Planning  
20 Act, in determining a development application relating to the carrying out of major development, the Planning Committee shall take into consideration any representations made in relation to the development to which the development application relates in accordance with section 41 by a Minister or public authority within 40 days after a copy of the application was  
25 forwarded to that Minister or public authority.

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

#### **Validity of consents**

30 43. The failure of the Planning Committee to comply with sections 40–42 in relation to a development application does not invalidate or otherwise affect a development consent given by the Planning Committee with respect to the development to which the application relates.

#### **Certain provisions of the Planning Act not to apply**

35 44. Sections 78–83 of the Planning Act do not apply to or in respect of major development.

### **Division 4—Other functions**

#### **Definition**

45. In this Division—

“authorisation” means—

- (a) a consent, permission, approval, concurrence, licence, permit or other authority of; or
  - (b) the exercise of a function by,
- 5 a Minister or public authority (not being a court) other than under Division 3 or as prescribed by the regulations.

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

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

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

47. (1) On receipt of the application, the Planning Committee shall decide which (if any) of the authorisations the Planning Committee proposes  
15 to deal with under this Division.

(2) The Planning Committee shall notify the applicant as soon as practicable of its decision.

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

- 20 48. (1) If the Planning Committee decides to deal with an authorisation under this Division, the Planning Committee shall—

- (a) notify the Minister or public authority concerned of its decision;
- (b) forward a copy of the development application to that Minister or public authority; and
- 25 (c) require that Minister or public authority to finally determine the matter requiring the authorisation within such time as the Planning Committee may specify having regard to any law (other than this Act) governing the granting of the authorisation or the exercise of the function comprising the authorisation.

- 30 (2) The Planning Committee may, before or after the expiration of the time specified under this section, extend that time from time to time.

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

- 35 49. (1) If the Minister or public authority concerned has not finally determined the matter requiring the authorisation within the time (or the extended time) specified by the Planning Committee, the Planning Committee may give notice to that Minister or public authority of the manner in which and the conditions (if any) subject to which the Planning Committee proposes to determine that matter in accordance with this Division.

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(2) If, within 14 days after receipt of a notice under this section, the Minister or public authority concerned has not finally determined the matter, the Planning Committee may determine the matter.

(3) The Planning Committee shall determine any matter under this section as if it were the Minister or public authority concerned and its determination shall have effect in all respects as if it were a determination of that Minister or public authority.

(4) The Planning Committee may exercise any function of the Minister or public authority concerned in order to give effect to its determination and the exercise of the function shall have effect in all respects as if it were exercised by that Minister or public authority.

**Directions by the Minister**

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

**Regulations**

51. The regulations may make provision for or with respect to the following:

- (a) the form in which applications under this Division may be made;
- (b) the fees to be lodged with applications;
- (c) the determination of applications;
- (d) the recording of determinations;
- (e) the notification of the making of determinations;
- (f) the giving of effect to determinations;
- (g) the public availability of determinations.

**PART 5—MISCELLANEOUS****Amendment of certain Acts**

52. Each Act specified in Schedule 2 is amended as set out in that Schedule.

**30 Repeal of Local Government (City of Sydney Boundaries) Act 1981 No. 112**

53. On the commencement of Part 2, the Local Government (City of Sydney Boundaries) Act 1981 is repealed.

**Repeal of City of Sydney Act 1987 No. 12**

54. (1) On the commencement of Part 2, the City of Sydney Act 1987 is repealed.

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(2) A person who, immediately before the commencement of Part 2, held office as a Commissioner under that Act—

(a) ceases to hold office as such on that commencement; and

5 (b) is not entitled to any remuneration or compensation because of the loss of that office.

**Rescission etc. of proclamations**

55. Section 647 of the Principal Act applies to a proclamation under or for the purposes of this Act in the same way as it applies to a proclamation under the Principal Act.

10 **Savings, transitional and other provisions**

56. Schedule 3 has effect.

**Regulations**

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

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**SCHEDULE 1—THE PLANNING COMMITTEE**

(Sec. 34)

**PART 1—MEMBERS**20 **Definitions**

1. In this Schedule—

“appointed member” means a person referred to in section 33 (d);

“elected member” means a person referred to in section 33 (b).

**Elected members**

25 2. (1) An ordinary election of elected members shall be held at the same meeting of the City Council at which the ordinary election of the Lord Mayor of Sydney is held.

(2) The office of an elected member commences on the day of the member's election and becomes vacant on the day of the election of the member's successor or on the occurrence of an extraordinary vacancy.

30 (3) An extraordinary election of an elected member shall be held as soon as practicable after the extraordinary vacancy occurs.

(4) An elected member is eligible (if otherwise qualified) for re-election.

35 (5) The City Council may remove an elected member (other than a person who has been appointed under subclause (6) and who is not an alderman of the City of Sydney) at any time.



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(6) If a person is not elected in accordance with this clause, the Minister may appoint any person to be an elected member and the person so appointed shall be taken to have been duly elected.

5 (7) If a person appointed by the Minister to be an elected member is not an alderman of the City of Sydney, the Minister may remove the person from office at any time.

**Age of appointed members**

3. A person of or above the age of 70 years is not eligible for appointment as an appointed member or to act in the office of an appointed member.

**Chairperson**

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

**Alternate members**

5. (1) The Lord Mayor of Sydney may appoint an alderman of the City of Sydney who is not an elected member to be the alternate member for the Lord Mayor.

15 (2) The Director of Planning may appoint an officer of the Department of Planning to be an alternate member for the Director.

(3) The Minister may appoint a person to be an alternate member for an appointed member.

(4) A person may not be an alternate member for more than one member of the Planning Committee at the same time.

20 (5) An alternate member while acting in the office of a member has, subject to clause 15, all the functions of the member and shall be taken to be the member.

**Term of office of appointed member**

6. Subject to this Schedule, an appointed member shall hold office for such period (not exceeding 5 years) as may be specified in the member's instrument of appointment, 25 but is eligible (if otherwise qualified) for re-appointment.

**Remuneration of appointed member**

7. An appointed member is entitled to be paid from the general fund of the City Council such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the appointed member.

**30 Extraordinary vacancy in office of elected member**

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

- (a) an extraordinary vacancy occurs under the Principal Act in the civic office of the member; or  
 (b) the member resigns the office by instrument in writing addressed to the City Council.
- 35

**Vacancy in office of appointed member**

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

- (a) dies;  
 (b) completes a term of office and is not re-appointed;

SCHEDULE 1—THE PLANNING COMMITTEE—*continued*

- (c) resigns the office by instrument in writing addressed to the Minister;
- (d) is removed from office by the Minister under this clause;
- (e) reaches the age of 70 years;
- 5 (f) is absent from 4 consecutive meetings of the Planning Committee of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for having been absent from those meetings;
- 10 (g) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (h) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the
- 15 Protected Estates Act 1983; or
- (i) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- 20 (2) The Minister may remove an appointed member from office at any time.

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

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

**Disclosure of pecuniary interests**

25 11. (1) Sections 46C, 46D, 46G and 46H of the Principal Act apply to and in respect of—

- (a) a member of the Planning Committee or a subcommittee of the Planning Committee; and
- (b) a meeting of the Planning Committee or such a subcommittee.

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

**Liability of members etc.**

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

**PART 2—PROCEDURE****40 General procedure**

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

*City of Sydney 1988*SCHEDULE 1—THE PLANNING COMMITTEE—*continued***Quorum**

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

**Presiding member**

5 15. (1) The Chairperson of the Planning Committee or, in the absence of the Chairperson, another member elected to chair the meeting by the members present shall preside at a meeting of the Planning Committee.

(2) The person presiding at any meeting of the Planning Committee has a deliberative vote only.

10 (3) The alternate member for the Lord Mayor of Sydney shall not preside at a meeting of the Planning Committee unless elected in accordance with this clause.

**Voting**

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

**Application of Ordinance No. 1 (Council Meetings and General Business)**

15 17. Ordinance No. 1 under the Principal Act applies to and in respect of the members of the Planning Committee in the same way as it applies to and in respect of the members of a council, other than such of the provisions of the Ordinance as the Planning Committee, with the approval of the Minister, determines by order in writing should be excluded.

20 **PART 3—GENERAL****Proof of certain matters not required**

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

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

**Authentication of documents**

30 19. A document requiring authentication by the Planning Committee may be sufficiently authenticated if signed by the Chairperson of the Planning Committee or the town clerk of the City of Sydney.

## SCHEDULE 2—AMENDMENT OF CERTAIN ACTS

(Sec. 52)

35 **Darling Harbour Authority Act 1984 No. 103—**(1) Section 3 (**Definitions**)—

(a) Section 3 (1)—

*City of Sydney 1988*SCHEDULE 2—AMENDMENT OF CERTAIN ACTS—*continued*

Omit the definitions of “control”, “development plan”, “existing use” and “permit”.

(b) Section 3 (5)—

Omit the subsection.

5 (2) Section 9 (**Objects of the Authority**)—

Omit “, carry out and control”, insert instead “and carry out”.

(3) Section 10 (**Functions of the Authority generally**)—

Omit section 10 (4).

(4) Section 18 (**Public roads within the Development Area**)—

10 Omit the section.

(5) Parts 4 (**Development Plans**) and 5 (**Development Control**)—

Omit the Parts.

(6) Section 49 (**Definition**)—

(a) Section 49 (a) (ii)—

15 Omit “Act; and”, insert instead “Act.”.

(b) Section 49 (b)—

Omit the paragraph.

(7) Section 51 (**Orders of the Court**)—

Section 51 (2), (3)—

20 Omit the subsections.

(8) Section 59 (**Application of certain legislation within Development Area**)—

Omit the section.

(9) Section 67 (**Regulations**)—

(a) Section 67 (1) (f)–(i)—

25 Omit the paragraphs.

(b) Section 67 (3)—

Omit the subsection.

**Electricity Act 1945 (1946 No. 13)**—

(1) Schedule 5—

30 Insert, in alphabetical order, “South Sydney”.

(2) Schedule 6—

After “Marrickville”, insert “South Sydney”.

**Local Government Act 1919 No 41**—

(1) Section 25A (**Election of mayor or president by electors**)—

35 Section 25A (1) (a)—

Omit “the City of Sydney,”.

(2) Section 45 (**Inquiry**)—

Section 45 (2A)—

After section 45 (2), insert:

*City of Sydney 1988*SCHEDULE 2—AMENDMENT OF CERTAIN ACTS—*continued*

(2A) The court or any person so named shall not inquire into the correctness of any roll of electors used at an election, but shall assume that any such roll is correct.

**Sydney Cove Redevelopment Authority Act 1968 No. 56—**

- 5 (1) Sections 13–18—  
Omit the sections.
- (2) Section 19 (**General powers of Authority**)—
- (a) Section 19 (1)—  
Omit “and without limiting the generality of section 18.”
- 10 (b) Section 19 (1) (b), (c), (e), (f)—  
Omit the paragraphs.
- (c) Section 19 (2), (3)—  
Omit the subsections.
- 15 (3) Sections 24, 25—  
Omit the sections.

## SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 56)

## PART 1—PRELIMINARY

**Definitions**

- 20 1. In this Schedule—
- “Commissioners” means the Commissioners appointed under the City of Sydney Act 1987;
- “existing employee” means a person who, immediately before the commencement of Part 2 of this Act, was an employee of the City Council;
- 25 “transferred employee” means an existing employee who, in accordance with this Act, is transferred to the service of the South Sydney Council.

## PART 2—STAFF ARRANGEMENTS

**Appointment of town clerk of the City of South Sydney**

- 30 2. The Commissioners may, before the commencement of Part 2 of this Act, appoint and employ a person who, on that commencement, shall be taken to have been appointed and employed as town clerk of the City of South Sydney under section 88 of the Principal Act by the South Sydney Council.

**Acting town clerk of the City of South Sydney**

- 35 3. (1) If the Commissioners have not exercised their powers under clause 2 before the commencement of Part 2 of this Act, the person holding office as, or exercising the functions of, town clerk of the City of Sydney immediately before that commencement shall, on that commencement and until the South Sydney Council appoints and employs a town clerk under section 88 of the Principal Act, act as town clerk of the City of South Sydney.

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 SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—  
*continued*

(2) The person referred to in subclause (1) while so acting has all the functions of, and shall be taken to be, the town clerk of the City of South Sydney.

(3) The person referred to in subclause (1), in respect of the period for which the person so acts, does not have any rights or entitlements to remuneration, allowances, 5 superannuation or other payments or to leave as town clerk of the City of South Sydney.

**Arrangements for the transfer of existing employees**

4. (1) The Commissioners shall determine, in accordance with any directions of and subject to the approval of the Minister, the arrangements to be made for the transfer of existing employees to the service of the South Sydney Council and for such alterations 10 (if any) to staffing arrangements within the City Council as may, in the opinion of the Commissioners, having regard to those transfers, be necessary or desirable.

(2) The arrangements (despite any other law, but subject to clauses 5 and 6) may—

(a) in relation to existing employees generally—

15 (i) determine amounts of remuneration for specified classes of existing employees; and

(ii) authorise the establishment of a voluntary retirement scheme and require the making of payments in accordance with that scheme; and

(iii) authorise the making of industrial agreements; and

(b) in relation to transferred employees—

20 (i) authorise and require the payment of money by the City Council to the South Sydney Council towards the remuneration and overheads of those employees for such period and in such circumstances as may be determined by the Commissioners or any other specified person; and

25 (ii) authorise and require the payment of money by the City Council to the South Sydney Council towards the leave and retirement benefits of those employees and provide for the administration of that money pending its payment.

(3) If the Commissioners do not determine those arrangements to the satisfaction of the Minister by such day as may be specified by the Minister, they may be determined 30 by the Minister.

(4) The Governor may make a proclamation to take effect on or after the commencement of Part 2 of this Act embodying the arrangements.

(5) More than one such proclamation may be made.

(6) Any such proclamation has the force of law.

**35 Employment, remuneration etc. of transferred employees**

5. (1) On the commencement of Part 2 of this Act, in accordance with the arrangements determined under clause 4, an existing employee may be transferred to the service of the South Sydney Council and, if so transferred—

(a) shall become an employee of that council; and

40 (b) shall be taken to have been appointed and employed by that council under the Principal Act in such office (if any) of that council as may be specified in the arrangements.

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 SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—  
*continued*

(2) An existing employee so transferred who is not taken, under subclause (1) (b), to have been appointed and employed in a specified office shall, on that commencement and until otherwise directed by the South Sydney Council, continue to perform the duties which attached to the existing employee's employment before that commencement.

- 5 (3) The provisions of section 20c (2)–(4) and (6)–(8) of the Principal Act apply to and in respect of an existing employee transferred under this clause in the same way as those provisions apply to a person transferred under section 20c of the Principal Act.

**Continuation of remuneration and employment**

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

**PART 3—DIVISION OF ASSETS ETC.****Arrangements for the division of assets etc.**

- 20 7. (1) The Commissioners shall determine, in accordance with any directions of and subject to the approval of the Minister, the arrangements to be made for—
- (a) the apportionment of assets (including land and interests in land), rights, debts and liabilities of the City Council between it and the South Sydney Council; and
- (b) the handing over of books, documents, records and papers of the City Council to the South Sydney Council.
- 25 (2) The arrangements shall embody such measures as will facilitate the financial stability of the City of Sydney and the City of South Sydney and for that purpose, in addition to the matters referred to in subclause (1), may (despite any other law)—
- (a) authorise and require the payment of money by the City Council to or on behalf of the South Sydney Council for such purposes, for such periods and in such circumstances as the Commissioners or any other specified person may decide;
- 30 (b) authorise and require the City Council to provide (or to assist in the provision of) services within the City of South Sydney either jointly with the South Sydney Council or otherwise for such periods and in such circumstances as the Commissioners or any other specified person may decide;
- 35 (c) authorise the conduct or provision by the South Sydney Council (under a lease or otherwise and whether in accordance with section 519 of the Principal Act or otherwise) of facilities, undertakings and services of the City Council or within the City of Sydney for such periods and in such circumstances as the Commissioners or any other specified person may decide; and
- 40 (d) make provision with respect to insurances, including workers' compensation insurance.

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 SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—  
*continued*

(3) If the Commissioners do not determine those arrangements to the satisfaction of the Minister by such day as may be specified by the Minister, they may be determined by the Minister.

5 (4) The Governor may make a proclamation to take effect on or after the commencement of Part 2 of this Act embodying the arrangements.

(5) More than one such proclamation may be made.

(6) Any such proclamation has the force of law.

(7) Nothing in this clause limits or affects section 21 of the Principal Act.

**Vesting of assets etc.**

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

15 (a) all real and personal property (including any estate or interest in, or right to control or manage, real or personal property) that, immediately before that day, was vested in the City Council vests in the South Sydney Council;

(b) any money that, immediately before that day, was payable to the City Council becomes payable to the South Sydney Council;

20 (c) any liquidated or unliquidated claim that, immediately before that day, was enforceable by the City Council becomes enforceable by the South Sydney Council;

(d) any liquidated or unliquidated claim that, immediately before that day, was enforceable against the City Council becomes enforceable against the South Sydney Council;

25 (e) any proceeding pending immediately before that day at the suit of the City Council becomes a proceeding pending at the suit of the South Sydney Council;

(f) any proceeding pending immediately before that day against the City Council becomes a proceeding pending against the South Sydney Council;

30 (g) any contract, agreement or undertaking entered into with the City Council and in force immediately before that day becomes a contract, agreement or undertaking entered into with the South Sydney Council;

(h) any security or charge given to or by the City Council and in force immediately before that day becomes a security or charge given to or by the South Sydney Council.

35 **PART 4—MAKING OF RATES ETC.**

**Making of rates and garbage removal charges for 1989**

9. (1) The Commissioners may, before 1 January 1989, do all such things as are necessary to make or extend—

40 (a) general rates, special rates, local rates and loan rates for 1989 for the City of Sydney as constituted in accordance with this Act and the City of South Sydney as so constituted; and



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 SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—  
*continued*

(b) charges for services to be supplied in 1989 by the councils of those areas for the removal of garbage.

(2) A rate or charge so made or extended shall be taken to have been lawfully made or extended by the council of the area concerned.

5     **PART 5—PROVISIONS CONSEQUENTIAL ON THE AMENDMENT OF THE  
           DARLING HARBOUR AUTHORITY ACT 1984**

**Definitions**

10. (1) In this Part—

“appointed day” means the day on which this Part takes effect;

10 “Authority” means the Darling Harbour Authority;

“Authority Act” means the Darling Harbour Authority Act 1984;

“development plan” means a development plan within the meaning of the Authority Act, as in force immediately before the appointed day;

15 “permit” means a permit within the meaning of the Principal Act, as in force immediately before the appointed day.

(2) Words and expressions used in this Part have the same meanings as they have in the Planning Act.

**Development plans**

20 11. A development plan, as in force immediately before the appointed day, shall, subject to this Act and the Planning Act, continue in force after that day and shall be taken to be a local environmental plan.

**Draft development plans**

25 12. A draft development plan approved under section 25 of the Authority Act shall be taken to be a draft local environmental plan prepared by the Planning Committee in respect of which a certificate has been duly issued under section 65 of the Planning Act.

**Applications for permits**

13. (1) An application for a permit that was lodged, but has not been finally determined, before the appointed day shall continue to be dealt with in accordance with Part 5 of the Authority Act as if the Authority Act had not been amended by this Act.

30 (2) For the purposes of this clause, an application is not finally determined unless—

(a) a permit is granted or refused in respect of the application and no appeal is lodged within a period of 12 months from the date of granting or refusing the application;  
 or

35 (b) if an appeal is lodged within that period of 12 months—the appeal is withdrawn or finally disposed of.

**Development control**

40 14. (1) A provision of a development plan to the effect that specified development may be carried out without the necessity for a permit shall be taken to be a provision to the effect that that development may be carried out without the necessity for development consent.

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 SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—  
*continued*

(2) A provision of a development plan to the effect that specified development may not be carried out except with a permit shall be taken to be a provision to the effect that that development may not be carried out except with development consent.

**Permits**

5 15. (1) A permit granted under the Authority Act before the appointed day shall continue to have effect, in accordance with its terms, as if the Authority Act had not been amended by this Act.

(2) Notwithstanding subclause (1)—

- 10 (a) a permit shall lapse unless the development the subject of the permit is substantially commenced within 12 months after the day on which it took effect; and  
 (b) section 103 of the Planning Act has effect with respect to a permit.

**Construction of certain references**

15 16. On and from the appointed day, in any Act (other than this Act) or statutory instrument—

- (a) a reference to Part 4 or 5 of the Authority Act, or to any provision of those Parts, shall be read as a reference to the corresponding Part or provision of the Planning Act; and  
 20 (b) a reference to a development plan shall be read as a reference to a local environmental plan under the Planning Act; and  
 (c) a reference to a permit shall be read as a reference to a development consent under the Planning Act.

**PART 6—PROVISIONS CONSEQUENT ON THE AMENDMENT OF THE  
 SYDNEY COVE REDEVELOPMENT AUTHORITY ACT 1968**
**25 Definitions**

17. (1) In this Part—

“appointed day” means the day on which this Part takes effect;

“approved scheme” means the approved scheme within the meaning of the Authority Act, as in force immediately before the appointed day;

30 “Authority” means the Sydney Cove Redevelopment Authority;

“Authority Act” means the Sydney Cove Redevelopment Authority Act 1968.

(2) Words and expressions used in this Part have the same meanings as they have in the Planning Act.

**Approved scheme**

35 18. (1) The approved scheme, as in force immediately before the appointed day, shall, subject to this Act and the Planning Act, continue to have effect as if the Authority Act had not been amended by this Act.

(2) The approved scheme may be amended or repealed by an environmental planning instrument.

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 SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—  
*continued*

(3) The functions that were exercisable by the Authority under the approved scheme shall be exercised by the Planning Committee instead.

**Applications for consent**

19. An application for consent under the approved scheme shall be dealt with by  
 5 the Planning Committee.

**Appeals**

20. An appeal against a decision of the Authority in relation to an application for consent under the approved scheme shall be heard and determined as if the Authority Act had not been amended by this Act.

**10 Consents under the approved scheme**

21. (1) A consent under the approved scheme has effect as if the Authority Act had not been amended by this Act.

(2) Notwithstanding subclause (1)—

15 (a) a consent under the approved scheme shall lapse unless the development the subject of the consent is substantially commenced within 12 months after the day on which it took effect; and

(b) section 103 of the Planning Act has effect with respect to a consent under the approved scheme.

**PART 7—MISCELLANEOUS****20 Application of statutory instruments**

22. A statutory instrument that applied to the City of Sydney, as constituted immediately before the commencement of Part 2 of this Act, shall (subject to this Act) continue, on and after that commencement, to apply to the City of Sydney and the City of South Sydney, as constituted by this Act, until varied, amended or repealed.

**25 Alteration of name**

23. Despite this Act, the Governor may, under the Principal Act, alter the name of the City of South Sydney.

**Exercise of Commissioners' functions**

30 24. The Minister may, after the day on which the Commissioners cease to hold office, exercise any function under this Act which could have been exercised by the Commissioners while in office.

**Effect of proclamations under s. 21 (1) of the Principal Act**

25. (1) Without limiting section 21 (1) of the Principal Act, a proclamation under that subsection may provide—

35 (a) that specified provisions of the Principal Act or the ordinances made under that Act apply or do not apply to or in relation to any matter or thing authorised or required to be done under this Act; and

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 SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—  
*continued*

- (b) where specified provisions of that Act or those ordinances are applied under paragraph (a), that they so apply with specified modifications by way of omission from, addition to or partial substitution for those provisions; and
- 5 (c) whether or not specified provisions of that Act or those ordinances are applied under paragraph (a), that specified provisions additional to those of the Principal Act and the ordinances made under that Act apply to or in relation to any matter or thing authorised or required to be done under this Act.
- (2) A provision of a proclamation referred to in this section may—
- 10 (a) apply generally or be limited in its application by reference to specified exceptions or factors; or
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.

15 **Draft local environmental plans**

26. Section 38 applies to a draft local environmental plan in course of preparation by the City Council immediately before the commencement of that section.

**Development applications**

20 27. Section 39 applies to a development application for consent to carry out major development which has not been finally determined by the City Council immediately before the commencement of that section.

**Validation**

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

**Regulations**

29. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.
- 30 (2) Any such provision may, if the regulations so provide, take effect from the date of assent or a later day.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—
- 35 (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.