

FIRST PRINT

**NATURAL RESOURCES MANAGEMENT COUNCIL
BILL 1992**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The following Bills are cognate with this Bill:

- Endangered and Other Threatened Species Conservation Bill 1992
- Environmental Planning and Assessment (Amendment) Bill 1992
- Forest (Resource Security) Bill 1992
- Heritage (Amendment) Bill 1992

The object of this Bill is to establish an independent authority to improve the decision-making process with respect to the use of public land so that:

- (a) the Government may make sound decisions about the balance between conservation and other natural resource use; and
- (b) the allocation of the use of natural resources to industry is secure.

In particular, the object of this Bill is to ensure that:

- (c) comprehensive and reliable information about the natural resources of the public land is compiled and available for the purposes of that decision-making process; and
 - (d) all values of the public land (including conservation and economic values) are assessed; and
 - (e) those assessments are made on a systematic regional basis instead of by different government agencies on a site by site basis; and
 - (f) principles of environmental policy (as agreed between the Commonwealth and the States) are applied in the decision-making process as the basis of ecologically sustainable development.
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PART 1—PRELIMINARY

Clause 1 sets out the short title of the proposed Act.

Clause 2 provides that the proposed Act will commence on a day or days to be proclaimed.

Clause 3 sets out the objects of the proposed Act.

Clause 4 contains definitions used in the proposed Act.

Clause 5 defines "public land" for the purposes of the proposed Act. The definition includes all Crown lands, dedicated and reserved lands (including State forests and national parks) and the coastal sea.

Clause 6 provides that references in the proposed Act to the use etc. of public land include references to the use etc. of the natural resources of that land.

PART 2—ESTABLISHMENT OF NATURAL RESOURCES MANAGEMENT COUNCIL OF NEW SOUTH WALES

Clause 7 establishes a Natural Resources Management Council of New South Wales. The Council is to be a body corporate.

Clause 8 provides that the Council is to consist of 13 members, being an independent Chairperson, 7 senior government officers, 4 non-government members and a Commonwealth member.

Clause 9 provides that the Council is not subject to Ministerial control or direction with respect to its reports or advice.

Clause 10 deals with the staffing of the Council. Public servants or other seconded staff may be employed.

Clause 11 empowers the Council to enter into arrangements with other agencies for assistance in the exercise of its functions and to engage consultants.

Clause 12 empowers the Council to delegate its functions to any of its members or to any committee which includes its members.

PART 3—PRINCIPAL FUNCTIONS AND OBLIGATIONS OF COUNCIL

Clause 13 states that the principal function of the Council is the review on a regional basis of the use of public land and the provision of advice on disputes or issues relating to the use of particular public land.

Clause 14 obliges the Council to compile and evaluate information about public land and its natural resources for the purpose of exercising its principal functions.

Clause 15 obliges the Council, for the purpose of exercising its principal functions, to assess all the values of public land, including its conservation and economic significance to the State.

Clause 16 obliges the Council when deciding on proposed uses of public land to apply principles of environmental policy agreed by Commonwealth and State Governments as the basis of ecologically sustainable development.

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PART 4—REGIONAL REVIEWS OF USE OF PUBLIC LAND

Division 1—Conduct of regional reviews

Clause 17 requires the Council to conduct regional reviews on uses of public land in accordance with a reference from the Premier and to report to the Premier on the result of each review.

Clause 18 authorises the Premier to refer regional reviews to the Council.

Clause 19 enables the Premier to determine the timetable for regional reviews.

Clause 20 enables references of regional reviews to be limited to significant areas of public land or to fishery resources.

Clause 21 enables private land that adjoins or has some other connection with public land (or that is proposed to be acquired for public land) to be included in a regional review.

Clause 22 requires the Council to consult the public before finalising its report of a regional review.

Division 2—Reports of regional reviews

Clause 23 provides for the submission of reports of regional reviews to the Premier and other relevant Ministers and government agencies.

Clause 24 requires the reports to be tabled in Parliament.

Clause 25 provides that the Premier may adopt a report or part of a report as government policy. The Premier may refer a report back to the Council, but may not vary a report.

Clause 26 provides for the implementation of adopted reports by requiring Ministers and agencies to take them into account in the exercise of their functions and to rely on them unless they have good reason not to do so.

Clause 27 lists particular functions to which clause 26 applies, such as Crown land assessment, environmental planning and assessment, wilderness area nominations, timber licences, mineral leases and mineral licences. The clause makes it clear that while the reports of the Council may be relied on for the purposes of environmental impact statements, the obligation to prepare such a statement is not excluded.

PART 5—ADVICE ABOUT PARTICULAR DISPUTES AND ISSUES

Clause 28 provides that the Premier may refer to the Council for advice disputes or issues concerning the use of particular public land. A reference may extend to land that adjoins public land or has some other connection with public land (or that is proposed to be acquired for public land).

Clause 29 enables the Council to give the Premier advice on its own initiative.

Clause 30 deals with the reference of matters to the Council for advice.

Clause 31 applies, at the direction of the Premier, the provisions of Part 4 relating to reports of regional reviews to reports of advice of the Council under this Part.

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PART 6—MISCELLANEOUS

Clause 32 provides that the Council may require government agencies to provide information and enables any dispute to be settled by the Premier.

Clause 33 provides that the Council may rely on an E.I.S. etc. that is prepared by another agency and that it considers satisfactory.

Clause 34 provides that the proposed Act binds the Crown.

Clause 35 provides that members of the Council and persons acting under its direction are not to be held personally liable for acts done in good faith for the purpose of the proposed Act.

Clause 36 empowers the Governor to make regulations.

Clause 37 makes a consequential amendment of the Public Finance and Audit Act 1983 to apply to the Council the usual procedures for accounts, audit and annual reports of Departments.

Schedule 1 contains the usual provisions relating to members of the Council including terms of office, remuneration and disclosure of pecuniary interests.

Schedule 2 contains the usual provisions relating to the procedure of the Council.

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BILL 1992**

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**NATURAL RESOURCES MANAGEMENT COUNCIL
BILL 1992**

NEW SOUTH WALES



No. , 1992

A BILL FOR

An Act to establish the Natural Resources Management Council of New South Wales; to confer functions on that Council with respect to the decision-making process on the use of public land and its natural resources; and for other purposes.

See also Endangered and Other Threatened Species Conservation Bill 1992; Environmental Planning and Assessment (Amendment) Bill 1992; Forest (Resource Security) Bill 1992; Heritage (Amendment) Bill 1992.

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The Legislature of New South Wales enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the Natural Resources Management
5 Council Act 1992.

Commencement

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

Object of Act

- 10 3. (1) The object of this Act is to establish an independent authority to improve the decision-making process with respect to the use of public land so that:
- (a) the Government may make sound decisions about the balance between conservation and other natural resource use; and
 - 15 (b) the allocation of the use of natural resources to industry is secure.
- (2) In particular, the object of this Act is to ensure that:
- (a) comprehensive and reliable information about the natural resources of public land is compiled and available for the purposes of that decision-making process; and
 - 20 (b) all values of public land (including conservation and economic values) are assessed; and
 - (c) those assessments are made on a systematic regional basis instead of by different government agencies on a site by site basis; and
 - 25 (d) principles of environmental policy (as agreed between the Commonwealth and the States) are applied in that decision-making process as the basis of ecologically sustainable development.

Definitions

4. (1) In this Act:
- “Chairperson” means the Chairperson of the Council;
 - 30 “Council” means the Natural Resources Management Council of New South Wales established by this Act;

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- “government agency”** means any public or local authority, and includes:
- (a) a government department, State owned corporation and council of a local government area; and
 - (b) the head of a government agency; 5
- “natural resources”** includes:
- (a) soil resources; and
 - (b) coal, mineral or petroleum resources; and
 - (c) timber resources; and
 - (d) water resources; and 10
 - (e) fishery resources;
- “public land”** is defined in section 5;
- “regional review”** means a regional review by the Council under Part 4.
- (2) In this Act: 15
- (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.
- Definition of “public land”** 20
5. (1) In this Act:
- “public land”** means:
- (a) Crown land within the meaning of the Crown Lands Act 1989 or any other land of the Crown or of a government agency; or
 - (b) land granted, dedicated or reserved for a public purpose, including land dedicated or reserved under the Crown Lands Act 1989 or the National Parks and Wildlife Act 1974; 25
 - (c) land within a State forest, flora reserve or timber reserve within the meaning of the Forestry Act 1916; and
 - (d) the coastal waters of the State or any lake or other body of water of which the bed is public land; and 30
 - (e) any other land declared by the regulations to be public land, but does not include any land declared by the regulations not to be public land.
- (2) In this Act, a reference to public land also includes a reference to any other land containing any timber resources of the Crown or a government agency. 35

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(3) For the purposes of this section, land of the Crown or a government agency includes land of the Crown in right of the Commonwealth and land of a government agency of the Commonwealth.

5 **References to use etc. of public land includes use etc. of natural resources of the land**

6. (1) For the purposes of this Act, a reference to the use of or other matter concerning public land includes a reference to the use of or other matter concerning the natural resources of the land.

10 (2) If the public land is a river or other body of water used for water supply, any such reference does not extend to a matter concerning the supply of the water to land that is not public land.

**PART 2—ESTABLISHMENT OF NATURAL RESOURCES
MANAGEMENT COUNCIL**

Establishment of Council

15 7. (1) There is established by this Act a Natural Resources Management Council of New South Wales.

(2) The Council is a body corporate.

Members and procedure of Council

8. (1) The Council consists of 13 members, being:

- 20 (a) the Chairperson of the Council; and
 (b) 7 government ex-officio members; and
 (c) 4 non-government appointed members; and
 (d) 1 Commonwealth member.

25 (2) The Chairperson is to be appointed by the Governor on the recommendation of the Premier. The Chairperson is not to be a member or officer of a government agency.

(3) The government ex-officio members are to be:

- 30 (a) the Director of Planning; and
 (b) the Director-General of the Department of Conservation and Land Management; and
 (c) the Director-General of the Environment Protection Authority; and
 (d) the Director of National Parks and Wildlife; and

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- (e) the nominee for the time being of the Minister for Natural Resources (being the Director of the Department of Water Resources, the Director of NSW Fisheries or the Director-General of the Department of Mineral Resources); and
- (f) the Commissioner constituting the Forestry Commission; and 5
- (g) the Director-General of the Department of State Development.
- (4) The non-government appointed members are to be appointed by the Governor on the recommendation of the Premier. Those members are not to be members or officers of government agencies and are each to have expertise in one or more of the following areas (and between them are to have expertise in all of those areas): 10
- resource economics
 - natural resource conservation
 - natural resource extraction and processing
 - biodiversity conservation (and in particular expertise in endangered species) 15
 - industry and commerce
- (5) The Commonwealth member is to be a commissioner of the Australian Heritage Commission appointed by the Governor on the nomination of the Commonwealth Minister responsible for that Commission. 20
- (6) Schedule 1 has effect with respect to the members of the Council.
- (7) Schedule 2 has effect with respect to the procedure of the Council.
- Council not subject to Ministerial control as to contents of reports or advice** 25
9. The Council is not subject to the control or direction of the Premier in respect of the contents of any report or advice of the Council, but in other respects is subject to the control and direction of the Premier.
- Staff of Council**
10. (1) Such staff as may be necessary to enable the Council to exercise its functions may be employed under Part 2 of the Public Sector Management Act 1988. 30
- (2) The Council may arrange for the use of the services of any staff or facilities of a government agency.

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Arrangements with other agencies, consultants etc.

11. (1) The Council may enter into arrangements with government authorities or other bodies with relevant expertise (including authorities or other bodies of the Commonwealth or other States) for assistance to the Council in connection with the exercise of the functions of the Council.

(2) The Council may engage consultants to assist it in the exercise of its functions.

Delegation of Council's functions

12. The Council may delegate its functions, other than this power of delegation, to any member of the Council or to any committee of persons (whether of members only or members and other persons).

PART 3—PRINCIPAL FUNCTIONS AND OBLIGATIONS OF COUNCIL

Principal functions

13. (1) The principal functions of the Council are:

- (a) the review on a regional basis of the existing or proposed use of public land; and
- (b) the provision of advice on the resolution of disputes about, or advice on issues concerning, the use of particular public land.

(2) The Council also has such other functions as are conferred or imposed by or under this or any other Act.

Obligation of Council to compile and evaluate information

14. (1) The Council is to compile and evaluate all relevant information held by government agencies about public land and its natural resources for the purpose of enabling the Council to exercise its principal functions.

(2) The Council may conduct its own research, or arrange for research to be conducted, if relevant and reliable information is not available from government agencies or other sources.

Obligation of Council to assess all values of public land

15. (1) The Council is, when exercising its principal functions, required to assess all the values of public land.

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(2) The values of public land are its conservation and economic significance for the State, and also its historic, scientific, cultural, social, archaeological and aesthetic significance for the State.

(3) When considering proposed uses of public land, the Council is to have regard to those assessed values and any other matters the Council considers relevant, including: 5

- (a) the environmental, social and economic implications of the proposed uses; and
- (b) the effect of those uses on endangered or other threatened species of animals or plants; and 10
- (c) the effect of those uses on the utilisation of the natural resources of the public land; and
- (d) any other thing specified by the Premier when referring the matter concerned to the Council.

Obligation of Council to apply agreed principles of environmental policy as basis of ecologically sustainable development 15

16. For the purposes of any decision on the proposed use of public land, the Council is to apply the principles of environmental policy referred to in the 1992 Intergovernmental Agreement on the Environment as the basis of ecologically sustainable development. 20

[NOTE: The text of the relevant part of the Agreement is set out in the Note at the end of this Act.]

PART 4—REGIONAL REVIEWS OF USE OF PUBLIC LAND

Division 1—Conduct of regional reviews

Council to conduct regional reviews and report to Premier 25

17. The Council is to review on a regional basis in accordance with a reference under this Part the existing or proposed use of public land and report to the Premier on the result of each regional review.

Reference of regional reviews to Council by Premier

18. (1) The Premier is, from time to time, to refer to the Council regional reviews in respect of such regions as the Premier determines. 30

(2) The Premier may, because of public submissions or for any other reason, amend any such reference at any time.

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(3) The Premier is to make any such reference (and any amendment of the reference) public.

Timetable for regional reviews

5 19. (1) The Premier is to determine the priority to be accorded to each regional review and make references to the Council accordingly.

(2) The Premier is to specify in each reference the period (not exceeding 2 years) within which the report on the regional review is to be submitted to the Premier.

Reference to Council may be limited

10 20. (1) The Premier may, in the reference of a regional review to the Council, identify the significant areas of public land in the region and require the Council to deal primarily with those public lands.

15 (2) The Premier may, in the reference of a regional review to the Council, limit the reference to fishery resources in the case of a body of water.

Inclusion of certain private land in reference to Council

21. A reference to the Council of a regional review in respect of any public land may include other land that is not public land if:

- 20 (a) the other land is in the vicinity of the public land or there is some other connection with the public land; or
- (b) the other land is proposed to be acquired for use as public land.

Public consultation by Council

25 22. (1) The Council is to make a draft report of a regional review available to the public at least 60 days before submitting the report to the Premier.

(2) If the Premier so requires, the Council is also to make the draft report available to any specified government agency or other person at such times as the Premier specifies.

30 (3) The Council is to take into account any submissions made on the draft report before it is finalised.

(4) The regulations may make provision for or with respect to the making of reports available to the public.

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Division 2—Reports of regional reviews

Reports to be given to Premier and referred to other responsible Ministers and agencies

23. (1) The Council is to submit its report on a regional review to the Premier in accordance with its reference on the matter. 5

(2) Unless the Premier otherwise directs, the Council is to submit with its report a copy of any submissions received by the Council on the draft report.

(3) The Premier may forward a copy of the report to any Ministers whom, and government agencies which, the Premier considers have an interest in the report. 10

Reports of regional reviews to be tabled in Parliament

24. (1) After the Premier receives a report of a regional review of the Council, the Premier must cause a copy of the report to be laid before each House of Parliament within 21 sitting days of that House after the day on which the Premier receives the report. 15

(2) However, if the Council recommends that the tabling of the report, or part of the report, be delayed for a specified period, subsection (1) applies to the report, or that part of the report, as if the report were received by the Premier at the end of that period. 20

Adoption of reports by Premier

25. (1) After a report of a regional review has been duly tabled in Parliament, the Premier may adopt the report as government policy.

(2) The Premier may decline to adopt the report or may decline to adopt a part of the report. 25

(3) The Premier may refer back to the Council any report or part of a report that the Premier has declined to adopt for a further report in accordance with this Act.

(4) The Premier may adopt a report or a part of a report that the Premier has previously declined to adopt. 30

(5) An adopted report ceases to be adopted for the purposes of this Act if the Premier so directs.

Implementation of adopted reports of regional reviews

26. (1) This section applies to a report of a regional review that has been adopted by the Premier for the purposes of this Act. 35

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(2) Ministers and government agencies are to take into account any adopted report that is relevant to the exercise of their statutory and other functions.

5 (3) Ministers and government agencies are, to the extent that it is relevant to the exercise of their statutory and other functions, to rely on information about public land and on the assessment of the values of the land provided in an adopted report unless satisfied that there are good reasons not to do so.

10 (4) A contravention of this section does not invalidate the exercise of any function by a Minister or government agency.

Particular statutory functions to which adopted reports apply

27. (1) Without limiting section 26, the functions to which that section applies include the following statutory functions:

- 15 (a) a land assessment required to be undertaken under the Crown Lands Act 1989 by the Minister administering that Act;
- (b) the preparation by a council or the Director of Planning of an environmental planning instrument under the Environmental Planning and Assessment Act 1979;
- 20 (c) the granting of consent to development by a consent authority under Part 4 of the Environmental Planning and Assessment Act 1979;
- (d) any environmental assessment or other thing done by a determining authority or the Director of Planning for the purposes of Part 5 of the Environmental Planning and Assessment Act 1979, or the giving of an approval under Division 4 of that part by the Minister administering that Act for the carrying out of an activity;
- 25 (e) the making of a recommendation by the Director of National Parks and Wildlife on a nomination of a wilderness area under the Wilderness Act 1987 and the decision of the Minister administering that Act on the nomination;
- 30 (f) the issue of licences under the Forestry Act 1916 to take timber or forest materials or products from State forests or timber reserves by the Forestry Commission;
- (g) the issue of a lease or licence under the Coal Mining Act 1973, Mining Act 1973 or the Petroleum (Onshore) Act 1991 to prospect for or to take coal, minerals or petroleum;
- 35 (h) the grant of an authority under the Soil Conservation Act 1938 for the clearing of protected land;
- (i) the exercise of functions under the Fisheries and Oyster Farms Act 40 1935 relating to the taking of fish for sale.

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(2) In particular, section 26 applies so as to enable a Minister or government agency to rely on information and assessments provided in an adopted report for any relevant purposes of an environmental impact statement or other environmental assessment under the Environmental Planning and Assessment Act 1979. For that purpose, such a statement may incorporate all or any part of an adopted report. 5

(3) However, section 26 does not authorise a Minister or government agency to dispense with any requirement to prepare such a statement or to carry out such an assessment.

PART 5—ADVICE ABOUT PARTICULAR DISPUTES AND ISSUES 10

Reference of matters to Council for advice

28. (1) The Premier may refer the following matters to the Council for advice:

- (a) the resolution of a dispute about the use of particular public land; 15
- (b) an issue concerning particular public land.

(2) Without limiting subsection (1), the Premier may refer to the Council for advice any dispute about, or issue concerning, a particular natural resource of public land, such as timber resources or fishery resources. 20

(3) A reference under this section may extend to:

- (a) any land in the vicinity of public land or which has some other connection with public land; or
- (b) any land which is proposed to be acquired for use as public land.

Advice by Council on own initiative 25

29. (1) The Council may also advise the Premier on any matter it considers relevant that arises from a regional review or other matter referred to the Council by the Premier.

(2) Any such report may be part of the report to the Premier on the reference concerned or may be a separate report. 30

Provisions relating to reference to Council for advice

30. (1) In referring a matter to the Council for advice, the Premier may do any or all of the following:

- (a) specify a period within which the advice is to be submitted to the Premier; 35

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- (b) require the Council to make a draft report of its advice available to the public, or to any specified persons or bodies, before giving its advice;
- 5 (c) require the Council to consider specified matters when dealing with the matter,
- and the Council must act accordingly.

(2) The Premier may withdraw or amend a reference at any time.

Reporting on, tabling and adoption of advice

10 31. (1) The Premier may, when referring a matter to the Council for advice or at any time thereafter, direct in writing that Division 2 of Part 4 (Reports of regional reviews) applies to the advice.

(2) If the Premier gives such a direction, Division 2 of Part 4 applies to the Council's report of its advice in the same way as it applies to a report of a regional review.

15 **PART 6—MISCELLANEOUS**

Council may obtain information and documents from government agencies

20 32. (1) The Council may, for the purpose of a regional review or advice it is required to make or give under this Act, request a government agency to provide the Council with any relevant information held by the agency.

(2) If a dispute arises about any such request, the Council may refer the dispute to the Premier administering this Act and the Minister responsible for the government agency concerned for resolution.

25 **Council may rely on E.I.S. etc. prepared by other agencies**

33. The Council may, for the purpose of a regional review or advice it is required to make or give under this Act, rely on any environmental impact statement or other environmental study that:

- 30 (a) has been prepared by or on behalf of a government agency or other body; or
- (b) the Council considers to be satisfactory for that purpose.

Act binds Crown

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

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Personal liability of members of Council etc.

35. A matter or thing done by the Council, a member of the Council or any person acting under the direction of the Council does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject the member or a person so acting personally to any action, liability, claim or demand. 5

Regulations

36. 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. 10

Amendment of Public Finance and Audit Act 1983 No. 152

37. The Public Finance and Audit Act 1983 is amended by inserting in Schedule 3 (Departments) in alphabetical order the words "Natural Resources Management Council.". 15

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SCHEDULE 1—PROVISIONS RELATING TO MEMBERS OF COUNCIL

(Sec. 8 (6))

Definitions

- 5 1. In this Schedule:
- “**appointed member**” means the Chairperson, a non-government appointed member of the Council or the Commonwealth member of the Council;
- “**Chairperson**” means the Chairperson of the Council;
- 10 “**ex-officio member**” means a government ex-officio member of the Council;
- “**member**” means any member of the Council, including the Chairperson.

Deputies

- 15 2. (1) The Premier may, from time to time, appoint a person to be the deputy of a member, and the Premier may revoke any such appointment.
- (2) A person appointed as the deputy of a member (other than an ex-officio member or the Commonwealth member) must have the same qualifications as those required for appointment as the member.
- 20 (3) A person appointed as the deputy of an ex-officio member must be a member or officer of the same government agency to which the member belongs.
- (4) A person appointed as the deputy of the Commonwealth member must be a person nominated by that member.
- 25 (5) In the absence of a member, the member’s deputy:
- (a) may, if available, act in the place of the member; and
- (b) while so acting, has all the functions of the member and is taken to be a member.
- 30 (6) A person (other than the deputy of an ex-officio member) while acting in the place of an appointed member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Premier may from time to time determine in respect of the person.
- (7) For the purposes of this clause, a vacancy in the office of a member is taken to be an absence of the member.

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SCHEDULE 1—PROVISIONS RELATING TO MEMBERS OF
COUNCIL—*continued*

Terms of office of appointed members

3. Subject to this Schedule, an appointed member holds office for such period (not exceeding 2 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment. 5

Remuneration of appointed members

4. An appointed member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Premier may from time to time determine in respect of the member. 10

Vacancy in office of appointed member

5. (1) The office of an appointed member becomes vacant if the member:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or 15
- (c) resigns the office by instrument in writing addressed to the Premier; or
- (d) is removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or
- (e) is absent from 4 consecutive meetings of the Council of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Council or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Council for having been absent from those meetings; or 20
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or 25
- (g) becomes a mentally incapacitated person; or 30
- (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable. 35

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

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SCHEDULE 1—PROVISIONS RELATING TO MEMBERS OF
COUNCIL—*continued*

Disclosure of pecuniary interests

6. (1) If:
- 5 (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Council; and
- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the
- 10 matter,
- the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Council.
- (2) A disclosure by a member at a meeting of the Council that the
- 15 member:
- (a) is a member, or is in the employment, of a specified company or other body; or
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or
- 20 other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).
- 25 (3) Particulars of any disclosure made under this clause must be recorded by the Council in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee (if any) determined by the Council.
- (4) After a member has disclosed the nature of an interest in any
- 30 matter, the member must not, unless the Premier or the Council otherwise determines:
- (a) be present during any deliberation of the Council with respect to the matter; or
- (b) take part in any decision of the Council with respect to the matter.

Natural Resources Management Council 1992

**SCHEDULE 1—PROVISIONS RELATING TO MEMBERS OF
COUNCIL—*continued***

- (5) For the purposes of the making of a determination by the Council under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not: 5
- (a) be present during any deliberation of the Council for the purpose of making the determination; or
 - (b) take part in the making by the Council of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Council. 10

Filling of vacancy in office of appointed member

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

Effect of certain other Acts

8. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of an appointed member. 15
- (2) If by or under any Act provision is made:
- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
 - (b) prohibiting the person from engaging in employment outside the duties of that office, 20

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

**SCHEDULE 2—PROVISIONS RELATING TO PROCEDURE
OF COUNCIL AT MEETINGS** 25

(Sec. 8 (7))

Definition

1. In this Schedule:
- “member” means a member of the Council, including the Chairperson of the Council. 30

Natural Resources Management Council 1992

SCHEDULE 2—PROVISIONS RELATING TO PROCEDURE OF
COUNCIL AT MEETINGS—*continued*

General procedure

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

Quorum

3. The quorum for a meeting of the Council is 7 members.

Presiding member

- 10 4. (1) The Chairperson of the Council or, in the absence of the
Chairperson, another member elected to chair the meeting is to preside at
a meeting of the Council.

- (2) The person presiding at a meeting of the Council has a deliberative
15 vote and, in the event of an equality of votes, has a second or casting
vote.

Voting

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

Transaction of business outside meetings or by telephone etc.

- 20 6. (1) The Council may, if it thinks fit, transact any of its business by
the circulation of papers among all the members of the Council for the
time being, and a resolution in writing approved in writing by a majority
of those members is taken to be a decision of the Council.

- (2) The Council may, if it thinks fit, transact any of its business at a
25 meeting at which members (or some members) participate by telephone,
closed-circuit television or other means, but only if any member who
speaks on a matter before the meeting can be heard by the other
members.

- (3) For the purposes of:

- 30 (a) the approval of a resolution under subclause (1); or
(b) a meeting held in accordance with subclause (2),

the Chairperson and each member have the same voting rights they have
at an ordinary meeting of the Council.

Natural Resources Management Council 1992

SCHEDULE 2—PROVISIONS RELATING TO PROCEDURE OF
COUNCIL AT MEETINGS—*continued*

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Council.

(5) Papers may be circulated among members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned. 5

First meeting

7. The Premier may call the first meeting of the Council in such manner as the Premier thinks fit. 10

NOTE

See section 16. Text of 1992 Intergovernmental Agreement on the Environment relating to principles of environmental policy

SECTION 3—PRINCIPLES OF ENVIRONMENTAL POLICY

- 3.1 The parties agree that the development and implementation of environmental policy and programs by all levels of Government should be guided by the following considerations and principles. 15
- 3.2 The parties consider that the adoption of sound environmental practices and procedures, as a basis for ecologically sustainable development, will benefit both the Australian people and environment, and the international community and environment. This requires the effective integration of economic and environmental considerations in decision-making processes, in order to improve community well-being and to benefit future generations. 20
25
- 3.3 The parties consider that strong, growing and diversified economies (committed to the principles of ecologically sustainable development) can enhance the capacity for environmental protection. In order to achieve sustainable economic development, there is a need for a country's international competitiveness to be maintained and enhanced in an environmentally sound manner. 30

NOTE—*continued*SECTION 3—PRINCIPLES OF ENVIRONMENTAL POLICY—
continued

- 5 3.4 Accordingly, the parties agree that environmental considerations will be integrated into Government decision-making processes at all levels by, among other things:
- (i) ensuring that environmental issues associated with a proposed project, program or policy will be taken into consideration in the decision-making process;
 - 10 (ii) ensuring that there is a proper examination of matters which significantly affect the environment; and
 - (iii) ensuring that measures adopted should be cost-effective and not be disproportionate to the significance of the environmental problems being addressed.
- 15 3.5 The parties further agree that, in order to promote the above approach, the principles set out below should inform policy making and program implementation.
- 20 3.5.1 precautionary principle—
Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.
In the application of the precautionary principle, public and private decisions should be guided by:
- 25 (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment; and
 - (ii) an assessment of the risk-weighted consequences of various options.
- 30 3.5.2 intergenerational equity—
the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.
- 35 3.5.3 conservation of biological diversity and ecological integrity—
conservation of biological diversity and ecological integrity should be a fundamental consideration.

NOTE—*continued*SECTION 3—PRINCIPLES OF ENVIRONMENTAL POLICY—
continued

- 3.5.4 improved valuation, pricing and incentive mechanisms—
- environmental factors should be included in the valuation of assets and services 5
 - polluter pays i.e. those who generate pollution and waste should bear the cost of containment, avoidance, or abatement
 - the users of goods and services should pay prices based on the full life cycle costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any wastes 10
 - environmental goals, having been established, should be pursued in the most cost-effective way, by establishing incentive structures, including market mechanisms, which enable those best placed to maximise benefits and/or minimise costs to develop their own solutions and responses to environmental problems. 15
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