

ATTACHMENT 4

Environmental Planning and Assessment Act 1979 No 203

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Schedule 4

<< page >>

Schedule 4 Joint Regional Planning Panels

(Section 23G (6))

Part 1 General**1 Definitions**

In this Part:

applicable council means the council of an area that is situated (wholly or partly) in a part of the State for which a regional panel is appointed.

chairperson means the person appointed by the Minister as the chairperson of a joint regional planning panel.

council nominee means a person nominated as a member of a regional panel by an applicable council.

member means the chairperson or other member of a regional panel.

State member means a member appointed by the Minister.

Part 2 Members**2 Members**

- (1) A regional panel is to consist of the following 5 members:
 - (a) 3 persons appointed by the Minister, each having expertise in at least 1 of planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, tourism or government and public administration,
 - (b) 2 council nominees of an applicable council, at least one of whom has expertise in planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism.
- (2) One of the State members is to be appointed by the Minister as chairperson of the regional panel. The Minister is required to obtain the concurrence of the Local Government and Shires Associations of New South Wales to the appointment unless:
 - (a) the Associations fail to notify their concurrence or refusal to concur within 21 days of being requested to do so by the Minister, or
 - (b) the Associations have refused to concur in 2 different persons proposed by the Minister for appointment.
- (3) In appointing a State member, the Minister is to have regard to the need to have a range of expertise represented among the panel's members.
- (4) Each applicable council is to nominate 2 persons as council nominees for the purposes of the regional panel, at least one of whom has expertise in planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism.

- (5) If an applicable council fails to nominate 1 or more council nominees, a regional panel is not required to include 2 council nominees for the purposes of exercising its functions in relation to the area of the council concerned.

3 Rotation of council nominees

- (1) For the purposes of exercising the functions of a regional panel in relation to a matter, the council nominees appointed to the regional panel are to be those nominated by the applicable council for the land to which the matter relates.
- (2) Subject to this Part, a council nominee remains eligible to participate as a member of the regional panel for such period (not exceeding 3 years) as is specified in the nominee's instrument of nomination, but is eligible (if otherwise qualified) for re-nomination.

4 Terms of office of State members

- (1) Subject to this Part, a State member holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.
- (2) The period under subclause (1) may be determined by reference to the occurrence of a specified event.

5 Basis of office

The office of a member is a part-time office.

6 Remuneration

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

7 Deputy chairperson

- (1) The members of a regional panel may elect a State member to be the deputy chairperson of the regional panel.
- (2) The person may be elected for the duration of the person's term of office as a member or for a shorter term.

8 Alternates

- (1) The Minister may, from time to time, appoint a person to be the alternate of a State member, and may revoke any such appointment.
- (2) An applicable council may, from time to time, appoint a person to be the alternate of a member nominated by the council, and may revoke any such appointment.
- (3) In the absence of a member, the member's alternate may, if available, act in the place of the member.
- (4) While acting in the place of a member, a person has all the functions of the member and is taken to be a member.
- (5) A person while acting in the place of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (6) A person may be appointed as the alternate of 2 or more members, but has only one vote

at any meeting of the regional panel.

9 Vacancy in office of member

- (1) The office of a member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister or applicable council, as the case requires, or
 - (d) in the case of a council nominee, is removed from office by an applicable council under this clause or by the Minister under subclause (2), or
 - (e) in the case of a State member, is removed from office by the Minister or by the Governor under Chapter 5 of the *Public Sector Employment and Management Act 2002*, or
 - (f) is absent from 3 consecutive meetings of the regional panel of which reasonable notice has been given to the member personally or by post, except on leave granted by the panel or unless the member is excused by the panel for having been absent from those meetings, or
 - (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, or
 - (h) becomes a mentally incapacitated person, or
 - (i) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may remove a member from office if the Independent Commission Against Corruption, in a report referred to in section 74C of the *Independent Commission Against Corruption Act 1988*, recommends that consideration be given to the removal of the member from office because of corrupt conduct by the member.
- (3) The Minister may remove a State member from office for any or no reason and without notice.
- (4) An applicable council may remove any of its council nominees from office for any or no reason and without notice.

10 Filling of vacancy in office of member

If the office of a member becomes vacant, a person may, subject to this Act and the regulations, be appointed to fill the vacancy.

11 Chairperson

- (1) The chairperson vacates office as chairperson if he or she:
 - (a) is removed from that office by the Minister, or
 - (b) resigns that office by instrument in writing addressed to the Minister, or
 - (c) ceases to be a member of the regional panel.

- (2) The Minister may at any time remove the chairperson from office as chairperson for any or no reason and without notice.

12 Disclosure of pecuniary interests

- (1) If:
- (a) a member has a pecuniary interest in a matter being considered or about to be considered at a meeting of the regional panel, 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 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 regional panel.
- (2) A member has a pecuniary interest in a matter if the pecuniary interest is the interest of:
- (a) the member, or
 - (b) the member's spouse or de facto partner or a relative of the member, or a partner or employer of the member, or
 - (c) a company or other body of which the member, or a nominee, partner or employer of the member, is a member.
- (3) However, a member is not taken to have a pecuniary interest in a matter as referred to in subclause (2) (b) or (c):
- (a) if the member is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or
 - (b) just because the member is a member of, or is employed by, a council or a statutory body or is employed by the Crown, or
 - (c) just because the member is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the member has no beneficial interest in any shares of the company or body.
- (4) A disclosure by a member at a meeting of the regional panel that the member, or a spouse, de facto partner, relative, partner or employer of the 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 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).
- (5) Particulars of any disclosure made under this clause must be recorded by the regional panel 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 determined by the regional panel.
- (6) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the regional panel otherwise determines:

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

13 Effect of certain other Acts

- (1) Chapter 2 of the *Public Sector Employment and Management Act 2002* does not apply to or in respect of the appointment of a member.
- (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,
- 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.