

STATE PLANNING COMMISSION ACT 1985.

(No. 91 of 1985.)

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SCHEDULE 1.

STATE PLANNING COMMISSION.

No. 91 of 1985.

AN ACT to establish a body with responsibility for urban, rural and regional land use planning and land development and related matters in the State, and to provide for a planning council for the metropolitan region and a planning council for the remainder of the State, and for connected purposes.

[Assented to 4 December 1985.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY.

1. This Act may be cited as the *State Planning Commission Act 1985*. Short title.

Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

Interpreta-
tion.

3. In this Act, unless the contrary intention appears—

“Account” means the State Planning Commission Account provided for by section 45 (2);

“associate member” means an associate member of the Commission appointed under section 6;

“chairman” means the chairman of the Commission;

“Commission” means the State Planning Commission established by section 4;

“Council” means the Metropolitan Planning Council established by section 24;

“District Planning Committee” means a District Planning Committee under section 23 of the Metropolitan Scheme Act;

“local government authority” means the executive body of a municipality or regional council within the meaning of the Local Government Act 1960 or a Commissioner appointed under that Act;

“member” means a member of the Commission;

“metropolitan region” and “Metropolitan Region Scheme” have the meanings assigned to them by the Metropolitan Scheme Act;

“Metropolitan Scheme Act” means the Metropolitan Region Town Planning Scheme Act 1959;

“public authority” means a Minister of the Crown in right of the State, Government department, State trading concern, State instrumentality, State public utility and any other person or body, whether corporate or not, who or which, under the authority of any written law, administers or carries on for the benefit of the State, a social service or public utility.

PART II—STATE PLANNING COMMISSION AND
OTHER BODIES.

Division 1—State Planning Commission.

4. (1) There is established by this section a Commission by the name of the State Planning Commission. Commission established.

(2) The Commission is a body corporate with perpetual succession and a common seal and is capable of—

- (a) acquiring, holding and disposing of real and personal property;
- (b) suing and being sued; and
- (c) doing and suffering all such acts and things as bodies corporate may lawfully do and suffer.

(3) The Commission is an agent of the Crown in right of the State.

5. (1) The Commission shall consist of a chairman and not less than 2 nor more than 4 other members nominated by the Minister and appointed by the Governor. Constitution of Commission.

(2) Every nomination of the Minister for appointment by the Governor shall be so made that the members of the Commission at all times have the following qualifications—

- (a) the chairman is a person who, in the opinion of the Minister, has practical knowledge of and experience in urban and regional planning, local government, commerce and industry, or administration;
- (b) one member is a person who was nominated from a panel of 3 names submitted jointly to the Minister by the Local Government Association of Western Australia (Inc.) and the Country Shire Councils' Association of Western Australia (Inc.) under subsection (3);
- (c) the other members are persons who, in the opinion of the Minister, have practical knowledge of and experience in either urban or regional planning, urban development, a public utility, rural affairs, environmental matters, or community affairs.

(3) Where the submission of a panel of names is required for the purposes of subsection (2) (b), the submission shall be made to the Minister, in writing signed on behalf of each of the Associations referred to in that subsection, within such reasonable time after the receipt by them of a notice from the Minister that such submission is required as is specified in the notice.

(4) If a submission has not been made in accordance with subsection (3) within the time specified under that subsection the Minister may nominate such person as he thinks fit to be a member of the Commission in place of the person provided for by subsection (2) (b).

6. (1) The Governor shall, on the nomination of the Minister, appoint an associate member for each region referred to in Schedule 1. Associate
members.

(2) Every nomination by the Minister for appointment as an associate member for a region shall be made from a panel of 3 names submitted jointly to the Minister by the local government authorities whose districts comprise that region.

(3) Where the submission of a panel of names for a region is required for the purposes of subsection (2), the submission shall be made to the Minister, in writing signed on behalf of each of the local government authorities whose districts comprise that region, within such reasonable time after the receipt by them of a notice from the Minister that such submission is required as is specified in the notice.

(4) If a submission has not been made in respect of a region in accordance with subsection (3) within the time specified under that subsection the Minister may nominate such person as he thinks fit to be an associate member of the Commission for that region.

(5) Where it appears to the chairman that a regional matter is to be considered at a meeting of the Commission he may, by notice in writing specifying the time and place of the meeting, request the associate member for that region to attend that meeting for the consideration of that matter.

(6) An associate member has all of the functions of a member in relation to the consideration of a regional matter at a meeting that he is requested to attend under subsection (5).

(7) In this section "regional matter" means a matter that, in the opinion of the chairman, affects more than one local government authority in a region.

Term of
office.

7. (1) A member and an associate member shall hold office for such term, not exceeding 5 years, as is specified in his instrument of appointment, and is eligible for reappointment.

(2) A member and an associate member, unless he sooner resigns or is removed from office, shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

Extent of
duties of
office.

8. (1) A member may be appointed on terms that require him to devote his full time to the performance of the duties of his office.

(2) Except as provided under subsection (1), appointment as a member or associate member shall be on a part time basis.

(3) The Minister may grant leave of absence to a member or an associate member.

Relationship
to Public
Service.

9. Appointment of a person as a member or associate member does not—

(a) render the Public Service Act 1978, or any Act applying to persons as officers of the Public Service of the State, applicable to that person; or

(b) affect or prejudice the application to him of those provisions if they applied to him at the time of his appointment.

Extra-
ordinary
vacancies.

10. The office of a member or associate member becomes vacant if—

(a) he resigns his office by written notice addressed to the Minister;

- (b) he is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy;
- (c) in the case of a member, he is absent, without leave of the Minister, from 3 consecutive meetings of which he has had notice;
- (d) in the case of an associate member, he is absent, without leave of the Minister, from 3 consecutive meetings which he was requested to attend under section 6 (5);
- (e) he is removed from office by the Governor on the grounds of misbehaviour, incompetence, or mental or physical incapacity impairing the performance of his duties and proved to the satisfaction of the Governor.

11. A member, an associate member or a member of a committee of the Commission shall be paid such remuneration and travelling and other allowances as are determined, in his case, by the Minister on the recommendation of the Public Service Board.

Remuneration and allowances of members.

12. (1) The Governor may, on the nomination of the Minister, appoint a member to be deputy chairman.

Deputy chairman.

(2) A person appointed under subsection (1) may resign at any time by notice in writing given to the Minister.

(3) An appointment under subsection (1) may be revoked by the Governor at any time.

(4) The deputy chairman has, during any period when the chairman is absent or otherwise unable to perform his functions, all of the functions and entitlements of the chairman in his capacity as chairman of the Commission.

(5) Where the member who is deputy chairman is performing the functions of the chairman at a meeting, section 13 applies as though that member were absent from the meeting.

Temporary members.

13. (1) If a member, other than the chairman, or an associate member is or is expected to be absent or otherwise unable to perform his functions, the Minister may appoint another person to act temporarily in his place, and while so acting according to the tenor of his appointment the appointee has all the functions and entitlements of a member or associate member as the case may be.

(2) No act or omission of a person acting in place of another under this section shall be questioned on the ground that the occasion for his appointment or acting had not arisen or had ceased.

(3) The appointment of a person as a temporary member under this section may be terminated at any time by the Minister.

Business of Commission.

14. Subject to this Act, the business of the Commission shall be conducted in such manner as the Commission determines.

Meetings of the Commission.

15. The first meeting of the Commission shall be convened by the chairman and thereafter meetings shall be held at the times and places determined by the Commission but the chairman or any 2 members may, on reasonable notice to all members, call a meeting at any time.

Proceedings of the Commission.

16. (1) At a meeting of the Commission, 3 members constitute a quorum.

(2) The chairman shall preside at every meeting of the Commission at which he is present but if the chairman or the deputy chairman is not present at a meeting the other members present shall select one of their number to act as chairman.

(3) Questions arising at a meeting of the Commission shall be decided, in open voting, by a majority of the votes of members or associate members present.

(4) If the votes of members or associate members present at a meeting and voting on a question are equally divided the chairman, deputy chairman or other person presiding shall have a casting vote in addition to his deliberative vote.

(5) The Commission shall keep a record of its proceedings.

17. (1) A member is not personally liable for any act done in good faith by the Commission or by him acting as a member. Protection
of members.

(2) In subsection (1)—

“Commission” includes a committee of the Commission; and

“member” includes an associate member and a member of a committee.

18. (1) The functions of the Commission are, in addition to those conferred on it by any other written law— Functions of
Commission.

(a) to advise the Minister on—

(i) the co-ordination and promotion of urban, rural and regional land use planning and land development in the State; and

(ii) the administration, revision and reform of legislation relating thereto;

- (b) to prepare a planning strategy for the State as a basis for co-ordinating and promoting regional land use planning and land development and for the guidance of Government Departments and instrumentalities and local authorities on those matters;
- (c) to provide advice and assistance to any body or person on land use planning and land development and in particular to local government authorities in relation to local planning schemes and policies and their planning and development functions;
- (d) to undertake research and develop planning methods and models relating to land use and development and associated matters;
- (e) in relation to the metropolitan region—
 - (i) to keep under review the strategic planning for that region and to make recommendations to the Minister thereon;
 - (ii) to keep under review the Metropolitan Region Scheme and to review that scheme completely whenever requested by the Minister to do so, and to submit for approval in accordance with Part III of the Metropolitan Scheme Act any variation, amplification or revocation of the Scheme considered necessary as a result of any review;
 - (iii) to advise the Minister on town planning schemes under the Town Planning and Development Act 1928, and amendments to those schemes, made or proposed to be made for any part of the metropolitan region;

- (iv) to develop, maintain and manage land held by it that is reserved under the Metropolitan Region Scheme and to carry out such works, including the provision of facilities thereon, as may be incidental to such development, maintenance and management or be conducive to the use of the land for any purpose for which it is reserved; and
- (v) to do all things that are necessary for the purpose of carrying out the Metropolitan Scheme Act and the Metropolitan Region Scheme.

(2) The Commission may do all things that are necessary or convenient to be done for, or in connection with, the performance of its functions.

(3) Without limiting the generality of subsection (2), the Commission may, for the purposes of paragraph (iv) of subsection (1) (e), enter into an agreement with any person under which that person may acquire a lease of, a licence in respect of, or any other estate or interest in, any land referred to in that paragraph.

(4) The Minister may give directions to the Commission with respect to the performance of its functions, either generally or with respect to a particular matter, and the Commission shall give effect to those directions.

19. (1) The Commission may from time to time— Committees.

(a) establish committees and—

- (i) prescribe the constitution of any committee;
- (ii) authorize a committee to establish any sub-committee; and

(iii) appoint such members of the Commission and other persons as it thinks fit to be members or deputy members of a committee;

(b) discharge, alter, or reconstitute any such committee; and

(c) give directions to a committee with respect to the performance of its functions.

(2) A committee shall comply with any direction of the Commission.

(3) Subject to any direction of the Commission, a committee may determine its own procedure.

Delegation.

20. (1) The Commission may, by resolution of which notice is published in the *Gazette*, either generally or as otherwise provided by the resolution, delegate to an eligible person or body any of its functions under this Act or any other written law.

(2) The Commission shall not under subsection (1) empower a delegate to subdelegate any function.

(3) The performance of a function by a delegate under subsection (1) shall be deemed to be the performance of the function by the Commission.

(4) In subsection (1) "eligible person or body" means—

(a) a member or associate member of the Commission;

(b) a committee of the Commission or a member of a committee;

(c) the Council or a member or committee thereof; or

(d) a public authority or a local government authority or a member or officer thereof.

21. (1) The Commission shall, as soon as is practicable after 1 July in each year, prepare and furnish to the Minister a report on its operations and proceedings and such other matters as the Minister may direct for the year ending on the preceding 30 June. Annual report.

(2) The Minister shall as soon as is practicable after he has received—

(a) the report; and

(b) copies of the financial statements under section 53 as audited by the Auditor General and his report thereon,

cause them to be laid before each House of Parliament.

(3) For the purposes of subsection (1), the period from the commencement of this Act to the succeeding 30 June shall be deemed to be a full year.

Division 2—Country Planning Council.

22. (1) The Commission shall under section 19 establish a committee with the title of the Country Planning Council. Council to be established.

(2) In prescribing the constitution of the Country Planning Council the Commission shall ensure that, where a matter to be considered by a meeting of that Council affects a region referred to in Schedule 1, that Council is constituted in such a way that the associate member for that region is entitled to notice of and to attend the meeting as a member of that Council.

(3) Subject to section 19, the functions of the Country Planning Council are—

(a) to make recommendations to the Commission on appropriate policies and procedures for land use planning and land development in country areas;

- (b) to advise the Commission on any aspect of land use planning or land development in country areas which has significance for any region referred to in Schedule 1; and
- (c) to undertake, or cause to be undertaken, and to encourage research into, and studies of, land use planning and land development in country areas.

(4) In this section “country areas” means the State apart from the metropolitan region.

Division 3—Metropolitan Planning Council.

Definitions. 23. In this Division unless the contrary intention appears—

“appointed member” means a member of the Council referred to in section 25 (1) (b), (c) or (d);

“chairman” means the chairman of the Council;

“member” means a member of the Council.

Establishment and functions of Council.

24. (1) There is established by this section a Council by the name of the Metropolitan Planning Council.

(2) The functions of the Council are to perform on behalf of the Commission such of the functions of the Commission—

(a) referred to in section 18 (1) (e); or

(b) in relation to the metropolitan region, under any other written law,

as the Commission may delegate to the Council under section 20.

(3) The Council is subject to the direction and control of the Commission as if it were a committee thereof.

25. (1) The Council shall consist of the following members— Membership
of Council.

- (a) the chairman of the Commission who shall, by virtue of his office, be chairman of the Council;
- (b) not more than 3 members appointed by the Minister under this paragraph;
- (c) one member being a member of the council of the municipality of the City of Perth who is nominated for appointment as a member of the Council by that local government authority and appointed by the Minister;
- (d) 5 members appointed by the Minister each representing a group of local government authorities in the First Schedule to the Metropolitan Scheme Act, who shall be a member of a local government authority in that group and shall be appointed from a panel of 3 names submitted by the District Planning Committee for that group;
- (e) each of the following by virtue of his office—
 - (i) the permanent head of the department of the Public Service of the State through which the Transport Act 1966 is administered;
 - (ii) the permanent head of the department of the Public Service of the State through which the Environmental Protection Act 1971 is administered;
 - (iii) the Commissioner of Main Roads appointed under section 7 of the Main Roads Act 1930; and
 - (iv) the holder of such office in the Water Authority of Western Australia, established by section 7 of the Water Authority Act 1984, as the Minister to whom the administration of that Act is committed may from time to time nominate.

(2) Where a nomination is required for the purposes of subsection (1) (c) or the submission of a panel of names by a District Planning Committee is required for the purposes of subsection (1) (d), the nomination or submission shall be made to the Minister, in writing signed on behalf of the council of the municipality of the City of Perth or the Committee, as the case may require, within such reasonable time after the receipt by it or them of a notice from the Minister that such nomination or submission is required as is specified in the notice.

(3) If a nomination or submission has not been made in accordance with subsection (2) within the time specified under that subsection the Minister may appoint such person having the necessary qualifications as he thinks fit to be a member of the Council, or deputy of a member as the case may require, to represent the council of the municipality of the City of Perth or the group of local government authorities, as the case may be.

Term of
office.

26. (1) An appointed member shall hold office for such term, not exceeding 2 years, as is specified in his instrument of appointment, and is eligible for reappointment.

(2) An appointed member, unless he sooner resigns or is removed from office, continues in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

Relationship
to Public
Service.

27. The fact that a person is a member does not—

(a) render the Public Service Act 1978, or any Act applying to persons as officers of the Public Service of the State, applicable to that person; or

(b) affect or prejudice the application to him of those provisions if they applied to him at the time when he became a member.

28. The office of an appointed member becomes vacant if—

Extra-ordinary vacancies.

- (a) he resigns his office by written notice addressed to the Minister;
- (b) he is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy;
- (c) being a member, representing a group of local government authorities, he ceases to be a member of a local government authority in that group;
- (d) being a member representing the municipality of the City of Perth, he ceases to be a member of the council of that municipality;
- (e) he is absent from 3 consecutive meetings of which he has had notice, without leave of the Council; or
- (f) he is removed from office by the Minister on the grounds of misbehaviour, incompetence, or mental or physical incapacity impairing the performance of his duties and proved to the satisfaction of the Minister.

29. An appointed member shall be paid such remuneration and travelling and other allowances as are determined, in his case, by the Minister on the recommendation of the Public Service Board.

Remuneration and allowances of members.

30. (1) The deputy chairman of the Commission shall be the deputy of the chairman of the Commission in his capacity as chairman of the Council and shall during any absence or incapacity of the chairman of the Council have all of his functions and entitlements.

Deputies.

(2) The Minister may appoint a person to be the deputy of each appointed member, and section 25 (1) (c) and (d), (2) and (3) shall with the necessary modifications apply to the appointment of deputies of the members referred to in section 25 (1) (c) and (d).

(3) A deputy of an appointed member may resign at any time by notice in writing given to the Minister.

(4) An appointment under subsection (2) may be revoked by the Governor at any time.

(5) The deputy of an appointed member has, at any meeting of the Council at which he but not the member is present, all of the functions and entitlements of that member.

Deputies or
ex officio
members.

31. A member referred to in section 25 (1) (e) may, with the approval of the Minister, nominate in writing, a senior officer in the Department or instrumentality which he represents to act for him as a member at any meeting which he is unable to attend, and while so attending the person so nominated has all of the functions and entitlements of that member.

Business of
Council.

32. Subject to this Act, the business of the Council shall be conducted in such manner as the Council determines.

Meetings of
the Council.

33. The first meeting of the Council shall be convened by the chairman and thereafter meetings shall be held at the times and places determined by the Council but the chairman may, on reasonable notice to all members, call a meeting at any time.

34. (1) At a meeting of the Council, 7 members constitute a quorum.

Proceedings
of the
Council.

(2) The chairman shall preside at every meeting of the Council at which he is present but if the chairman or his deputy is not present at a meeting the other members present shall select one of their number to act as chairman.

(3) Questions arising at a meeting of the Council shall be decided, in open voting, by a majority of the votes of members of the Council present.

(4) If the votes of members present at a meeting and voting on a question are equally divided the chairman, deputy chairman or other person presiding, shall have a casting vote in addition to his deliberative vote.

(5) The Council shall keep a record of its proceedings.

35. (1) A member is not personally liable for any act done in good faith by the Council or by him acting as a member.

Protection of
members.

(2) In subsection (1)—

“Council” includes a committee of the Council;
and

“member” includes a member of a committee.

36. (1) The Council may from time to time—

Committees.

(a) establish committees and—

(i) prescribe the constitution of any committee; and

(ii) appoint such members of the Council and other persons as it thinks fit to be members thereof;

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(b) discharge, alter, or reconstitute any such committee; and

(c) give directions to a committee with respect to the performance of its functions.

(2) A committee shall comply with any direction of the Council.

(3) Subject to this Act, a committee may determine its own procedure.

Delegation.

37. (1) Notwithstanding section 20 (2), the Council may, by resolution either generally or as otherwise provided by the resolution, delegate to an eligible person or body any of its functions under this Act other than this power of delegation.

(2) The performance of a function by a delegate under subsection (1) shall be deemed to be the performance of the function by the Council.

(3) In subsection (1) "eligible person or body" means—

(a) a member of the Council;

(b) a committee of the Council, or a member of a committee;

(c) a District Planning Committee; or

(d) a public authority or a local government authority or a member or officer thereof.

PART III—STAFF OF COMMISSION.

38. (1) The chairman shall, by virtue of his office, be the chief executive of the Commission and responsible for the day to day administration of the Commission.

Chairman
to be chief
executive.

(2) The chairman does not hold office under the Public Service Act 1978.

39. (1) A person who is skilled in town planning shall be appointed in the Commission, under and subject to the Public Service Act 1978, to be the Executive Director of Planning.

Executive
Director of
Planning.

(2) The functions of the Executive Director of Planning are to be the principal professional adviser to the Commission on matters of land use planning and land development and to perform such other functions as the Commission may determine.

40. (1) There shall be appointed under and subject to the Public Service Act 1978 such other officers as may be necessary to provide administrative, professional, scientific, technical, and other services to the Commission.

Appointment
of staff
generally.

(2) The Commission may engage persons as wages or field staff otherwise than under the Public Service Act 1978, and persons so engaged shall, subject to any relevant industrial award or agreement, be employed on such terms and conditions as the Minister determines, on the recommendation of the Public Service Board.

41. (1) The Commission may, with the approval of the Minister, engage under contracts for services such consultants and professional or technical or other assistance as it considers necessary to enable the Commission to perform its functions.

Engagement
of
consultants,
etc.

(2) The engagement of a person under subsection (1) does not—

- (a) render the Public Service Act 1978 or any Act applying to persons as officers of the Public Service of the State, applicable to that person; or
- (b) affect or prejudice the application to him of those provisions if they applied to him at the time of his engagement or appointment.

Use of staff and facilities of Departments, agencies and instrumentalities.

42. The Commission may, by arrangement made between it and the Minister concerned, and on such terms and conditions as may be mutually arranged by it with that Minister and with the Public Service Board, make use, either full time or part time, of—

- (a) the services of any officer or employee employed in the Public Service of the State or in a State agency or instrumentality or otherwise in the service of the Crown in right of the State; or
- (b) any facilities of a Department of the Public Service of the State or of a State agency or instrumentality.

Super-annuation.

43. (1) The Commission may request the Minister to whom the administration of the Superannuation and Family Benefits Act 1938 is committed to recommend to the Treasurer that the Commission be included as a corporate body in the term “department” for the purposes of that Act.

(2) The Treasurer may, if that Minister so recommends and on the Commission complying with the requirements of that Act, approve of the Commission as, and the Commission shall thereupon be deemed to be, a “department” for the purposes of that Act.

PART IV—FINANCIAL PROVISIONS.

44. Nothing in this Part shall be read as derogating from section 38 of the Metropolitan Scheme Act, and this Part shall have effect subject to that section. Saving.

45. (1) The funds available to the Commission to enable it to perform its functions are— Funds of Commission.

- (a) moneys from time to time appropriated by Parliament for the purposes of this Act or the Town Planning and Development Act 1928;
- (b) moneys received by the Commission by way of fees or charges;
- (c) moneys received by the Commission by way of gifts, bequests or other donations;
- (d) moneys borrowed by the Commission under this Act; and
- (e) moneys otherwise paid to or made available to the Commission.

(2) The funds referred to in subsection (1) shall be paid into and placed to the credit of an account at the Treasury to be called the "State Planning Commission Account".

(3) All expenditure incurred by the Commission for the purposes of performing its functions, including the repayment of moneys borrowed by or advanced to the Commission in accordance with this Act, shall be paid from the Account and moneys standing to the credit of the Account shall be applied only for the purposes of this Act or the Town Planning and Development Act 1928.

46. The Commission shall not without the consent of the Minister, in respect of any one work, make a contract or incur any expenditure the consideration or cost of which exceeds \$500 000. Approval of Minister to certain expenditure.

Investment
of Funds.

47. The Commission may, with the approval of the Treasurer, temporarily invest any moneys standing to the credit of the Account in such manner and in such categories of investments as are approved by the Treasurer until those moneys are required for the purpose of the performance of the functions of the Commission.

General
borrowing by
Commission.

48. (1) Subject to subsection (2), the Commission may, with the prior approval in writing of the Treasurer and on such terms and conditions as he approves, borrow money for the performance by the Commission of its functions.

(2) Before the Treasurer may approve of the borrowing of money under subsection (1), a proposal in writing showing—

- (a) the terms and particulars of the proposed loan;
- (b) the rate of interest to be paid on that loan;
- (c) the purpose to which the money borrowed is to be applied; and
- (d) the manner in which the loan is to be repaid,

shall first be submitted by the Commission on the recommendation of the Minister to, and approved by, the Treasurer.

(3) Any moneys borrowed by the Commission under this section may be raised as one loan or as several loans and in such manner as the Treasurer may approve, but the amount of money so borrowed shall not in any one year exceed in the aggregate such amounts as the Treasurer approves.

(4) For the purpose of making provision to repay either the whole or any part of any loan raised under this section the Commission may, subject to this section, borrow the moneys necessary for that purpose before the loan or part of it becomes payable.

49. (1) In addition to the powers conferred on it by section 48, the Commission may borrow from the Treasurer such amounts as the Treasurer approves on such conditions relating to repayment and payment of interest as the Treasurer imposes.

Borrowing
from
Treasurer.

(2) By virtue of this subsection the Account and the assets of the Commission are charged with the due performance by the Commission of all obligations arising from any advance made under this section.

50. (1) The Treasurer is hereby authorized to guarantee—

Guarantees
of borrow-
ings etc.

(a) the repayment of any amount borrowed from time to time under section 48; and

(b) the payment of interest and such other charges in respect of such borrowings as he has approved.

(2) Before a guarantee is given by the Treasurer under this section, the Commission shall give to the Treasurer such security as the Treasurer may require and shall execute all such instruments as may be necessary for the purpose.

(3) The Treasurer shall cause any money required for fulfilling any guarantee given by him under this section to be paid out of the Consolidated Revenue Fund which, to the extent necessary, is hereby appropriated accordingly, and the Treasurer shall cause any amounts received or recovered from the Commission or otherwise in respect of moneys so paid by him to be paid into the Consolidated Revenue Fund.

51. (1) The Commission shall cause annual estimates of its financial operations relating to the performance of its functions under this Act to be—

Estimates.

(a) prepared under such headings and in such manner as the Treasurer approves or directs; and

(b) submitted to the Minister.

(2) The Minister shall, if he approves annual estimates submitted to him under subsection (1), cause those estimates to be submitted to the Treasurer not later than a date specified by the Treasurer.

Accounts
to be kept.

52. The Commission shall—

- (a) cause to be kept proper accounts and records of its transactions and affairs under such heads as the Treasurer may from time to time direct;
- (b) do all things necessary to ensure that—
 - (i) all moneys received are properly brought to account;
 - (ii) all payments by the Commission are correctly made and properly authorized; and
 - (iii) adequate control is maintained over the assets of, or in the custody of, the Commission and over the incurring of liabilities by it.

Financial
statements.

53. (1) The Commission shall cause to be prepared in respect of each financial year ending on 30 June financial statements comprising—

- (a) a statement of financial transactions of the Commission for the financial year;
- (b) a statement of the financial position of the Commission at the end of the financial year; and
- (c) such financial statements other than those referred to in paragraphs (a) and (b) as the Treasurer from time to time directs,

in such form as the Treasurer approves, and shall submit those financial statements to the Auditor General for audit.

(2) The financial statements referred to in sub-section (1) shall—

- (a) present fairly the financial transactions of the Commission for the financial year to which they relate; and
- (b) present fairly the financial position of the Commission at the end of the financial year.

54. (1) On receiving the financial statements submitted to him under section 53, the Auditor General shall examine and audit the accounts and records of the financial transactions of the Commission and shall— Audit.

- (a) forthwith draw the attention of the Minister to any irregularity disclosed by that audit that is in the opinion of the Auditor General, of sufficient importance to justify him so doing; and
- (b) report to the Minister on—
 - (i) whether or not in his opinion the financial statements are based on proper accounts and records;
 - (ii) whether or not in his opinion the financial statements are properly drawn up in accordance with the relevant generally accepted accounting standards so as to present fairly the financial transactions of the Commission for the period under review and the financial position at the end of that period;

- (iii) whether or not in his opinion the controls exercised by the Commission are adequate to provide reasonable assurance that the receipt, expenditure and investment of moneys and the acquisition and disposal of assets have been in accordance with this Act, the Metropolitan Scheme Act, the Town Planning and Development Act or any other Act under which the Commission performs a function referred to in this paragraph; and
- (iv) such other matters arising out of the financial statements as the Auditor General considers should be reported.

(2) The Auditor General has for the purposes of this Act all the powers conferred on him by the Audit Act 1904.

PART V—GENERAL.

Duties and liability of persons performing functions under this Act.

55. (1) In this section—

“function” means a function in connection with the carrying out of this Act;

“meeting” means a meeting held in connection with the carrying out of this Act;

“member” means a member of—

(a) the Commission or the Council;

(b) a committee of the Commission or the Council;

(c) a District Planning Committee;

(d) a public authority; or

(e) a local government authority;

“this Act” includes the Town Planning and Development Act 1928 and the Metropolitan Scheme Act.

(2) A member shall at all times act honestly in performing any function.

(3) Where a matter is before a meeting for consideration and a member present at the meeting has a direct or indirect pecuniary interest in the matter, he shall as soon as possible after the relevant facts have come to his knowledge, disclose that he has an interest to the other members so present, and—

- (a) the disclosure shall be recorded in the minutes of the meeting; and
- (b) the member shall not thereafter be present during any consideration or discussion of, and shall not vote on any determination of, the matter.

(4) A member shall not disclose any information acquired by virtue of the performance of any function unless the disclosure is made—

- (a) in connection with the execution of this Act or under any legal duty; or
- (b) for the purposes of any proceedings arising out of this Act or any report of such proceedings.

(5) A member shall not make use of any information acquired by virtue of the performance of any function to gain directly or indirectly an improper advantage to himself or to cause detriment to the Commission.

(6) A member who commits a breach of any provision of this section—

- (a) is liable to the Commission for any profit made by him or for any damage suffered by the Commission as a result of the breach of that provision; and
- (b) commits an offence against this Act and is liable to a fine of \$5 000.

(7) This section is in addition to and not in derogation of any other law relating to the duty or liability of the holder of a public office.

Membership
not office
of profit.

56. A person is not by being reason only of holding any office created by or under this Act the holder of an office of profit of a municipality for the purposes of section 67 of the Local Government Act 1960.

Execution of
documents by
Commission.

57. (1) A document is duly executed by the Commission, if—

(a) the common seal of the Commission is affixed to it in accordance with subsections (2) and (3); or

(b) it is signed on behalf of the Commission by the member or members or officer or officers of the Commission authorized by the Commission to do so.

(2) The common seal of the Commission shall not be affixed to any document except by resolution of the Commission.

(3) The common seal of the Commission shall be affixed to a document in the presence of the chairman and another member, or the chairman and an officer of the Commission authorized by the Commission either generally or in any particular case to do so, and each of them shall sign the document to attest that that common seal was so affixed.

(4) A document purporting to be executed in accordance with this section shall be presumed to be duly executed until the contrary is shown.

(5) When a document is produced bearing a seal purporting to be the common seal of the Commission, it shall be presumed that that seal is the common seal of the Commission until the contrary is shown.

58. The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Act. Regulations.

59. (1) The Minister shall carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiration of 5 years from its commencement, and in the course of that review the Minister shall consider and have regard to— Review of Act.

- (a) the effectiveness of the operations of the Commission, the Country Planning Council and the Metropolitan Planning Council;
- (b) the need for the continuation of the functions of the Commission, the Country Planning Council and the Metropolitan Planning Council; and
- (c) such other matters as appear to him to be relevant to the operation and effectiveness of this Act.

(2) The Minister shall prepare a report based on his review made under subsection (1) and shall, as soon as is practicable after the preparation thereof, cause the report to be laid before each House of Parliament.

PART VI—TRANSITIONAL AND SAVINGS.

60. In this Part—

Definitions

“Authority” means the Metropolitan Region Planning Authority constituted by section 7 of the Metropolitan Scheme Act;

“Department” means the Town Planning Department established under the Public Service Act 1978;

“former authority” means the Authority, the Department and the Town Planning Board established by section 4 of the Town Planning and Development Act 1928.

Interpreta-
tion Act not
affected.

61. Nothing in this Part shall be construed so as to limit the operation of the Interpretation Act 1984.

Town
Planning
Department
abolished.

62. On the commencement of this Act the Department shall cease to exist.

Devolution
of rights,
assets and
liabilities.

63. On the commencement of this Act—

- (a) all rights, obligations and liabilities of a former authority existing immediately before such commencement are vested in or imposed on the Commission;
- (b) all real and personal property of whatever kind vested in or belonging to a former authority immediately before such commencement is vested in the Commission;
- (c) any proceedings which immediately before such commencement might have been brought or continued against a former authority may be brought or continued against the Commission;
- (d) anything lawfully commenced by a former authority may, so far as it is not contrary to this Act, the Town Planning and Development Act 1928 or the Metropolitan Scheme Act, be carried on and completed by the Commission.

Saving.

64. All acts, matters and things that at the commencement of the Acts Amendment (State Planning Commission) Act 1985 were in existence or in operation under an Act amended by that Act shall, in so far as is consistent with the Act as so amended, subsist and enure as if at the time when they originated or were done that Act as so amended had been in operation and they had originated or been done thereunder.

65. (1) In any written law and in any agreement, whether in writing or not, and in every deed or other instrument unless the context is such that it would be incorrect or inappropriate, a reference to—

References
in other
laws etc.

- (a) a former authority shall be a reference to the Commission;
- (b) the Town Planning Commissioner, the Chairman of the Town Planning Board, the Chairman of the Authority or the Secretary to a former authority shall be a reference to the chairman of the Commission.

(2) For the avoidance of doubt it is declared that “written law” in subsection (1) includes the Metropolitan Region Scheme, and any town planning scheme or interim development order under the Town Planning and Development Act 1928.

66. (1) A person who immediately before the commencement of this Act was a member of the North-West District Planning Committee as a representative of the City of Stirling or the City of Wanneroo shall as from such commencement be a member of the North-West District Planning Committee in the same capacity.

Membership
of District
Planning
Committees.

(2) A person who immediately before the commencement of this Act was a member of the North-West District Planning Committee as a representative of any other local government authority shall represent that local government authority as a member of the Western Suburbs District Planning Committee.

67. On the commencement of this Act all persons who were employed immediately before such commencement by a former authority or in the Department, not being persons subject to the Public Service Act 1978, shall be deemed to have been engaged by the Commission under section 40 (2) on the same terms and conditions, including the salary payable, as those on which they were employed immediately before such commencement.

Staff not
under the
Public
Service
Act 1978.

Transfer of appropriations.

68. The unexpended portion of any moneys appropriated before the commencement of this Act for a service or function to be performed by the Authority shall be deemed to have been appropriated for the performance of that service or function by the Commission.

Annual reports for part of a year.

69. (1) As soon as is practicable after the commencement of this Act the Authority shall prepare and deliver to the Minister a report as required by section 29 of the Metropolitan Scheme Act, for the period from the preceding 1 January to the date of commencement of this Act, and the report shall be laid before both Houses of Parliament.

(2) Notwithstanding the Acts Amendment (State Planning Commission) Act 1985, the Authority shall continue in existence for the purposes of subsection (1).

SCHEDULE 1.

[s. 6]

Avon Midland Region—

The Districts of the Shires of Chittering, Dandaragan, Gingin, Goomalling, Moora, Northam, Toodyay, Victoria Plains and Wongan-Ballidu and the Town of Northam.

Central Region—

The Districts of the Shires of Beverley, Boddington, Brookton, Cuballing, Corrigin, Kulin, Mandurah, Murray, Narrogin, Pingelly, Quairading, Wandering, Wickepin, Williams and York and the Town of Narrogin.

South West Region—

The Districts of the City of Bunbury, and the Shires of Augusta-Margaret River, Boyup Brook, Busselton, Bridgetown-Greenbushes, Capel, Collie, Dardanup, Donnybrook-Balingup, Harvey, Manjimup, Nannup and Waroona.

Northern Region—

The Districts of the Shires of Carnamah, Chapman Valley, Coorow, Dalwallinu, Greenough, Irwin, Mingenew, Morawa, Mullewa, Northampton, Perenjori and Three Springs and the Town of Geraldton.

Great Eastern Region—

The Districts of the Shires of Bruce Rock, Cunderdin, Dowerin, Kellerberrin, Kondinin, Koorda, Merredin, Mt Marshall, Mukinbudin, Narembeen, Nungarin, Tammin, Trayning, Westonia, Wyalkatchem and Yilgarn.

Great Southern Region—

The Districts of the Town of Albany and the Shires of Albany, Broomehill, Cranbrook, Denmark, Dumbleyung, Gnowangerup, Jerramungup, Katanning, Kent, Kojonup, Lake Grace, Plantagenet, Ravensthorpe, Tambellup, Wagin, West Arthur and Woodanilling.

Gascoyne Region—

The Districts of the Shires of Carnarvon, Exmouth, Shark Bay and Upper Gascoyne.

Murchison Region—

The Districts of the Shires of Cue, Meekatharra, Mt Magnet, Murchison, Sandstone, Wiluna and Yalgoo.

Esperance-Eastern Goldfields Region—

The Districts of the Town of Kalgoorlie and the Shires of Boulder, Coolgardie, Dundas, Esperance, Laverton, Leonora and Menzies.

Kimberley Region—

The Districts of the Shires of Broome, Derby-West Kimberley, Hall's Creek and Wyndham-East Kimberley.

Pilbara Region—

The Districts of the Shires of East Pilbara, Port Hedland, Roebourne and West Pilbara.
