TWENTIETH NGARCHELONG STATE ASSEMBLY
FIFTH SPECIAL SESSION
July, 2021

A. BILL NO: 20-10.D1

A BILL FOR AN ACT

To establish the Ngarchelong State Planning Commission and State Building Zoning, and Planning Office whose task is to develop, submit, evaluate, and ensure compliance with the Master Plan, Land Use Control Laws, and Amendments for Ngarchelong State and for other purposes.

INTRODUCED BY: Assemblyman Johnny N. Sambai

DATE INTRODUCED: July 17, 2021

ASSEMBLY ACTION

DATE INTRODUCED: July 17, 2021
REFERRED TO: R&D n.JGA Comm.
STAND. COMM. REP. NO: 14
ADOPTION OF COMM. REP: August 12, 2021
SECOND READING: August 12, 2021
LEGAL FORMAT: Proper
REVIEW: August 12, 2021
THIRD READING: August 19, 2021
FINAL READING: August 19, 2021

[Signature]
Jiengerel Mai
Assembly Clerk
TWENTIETH NGARCHELONG STATE ASSEMBLY

FIFTH SPECIAL SESSION, JULY 2021.

AN ACT

To establish the Ngarchelong State Planning Commission and State Building, Zoning, and Planning Office whose task is to develop, submit, evaluate, and ensure compliance with the Master Plan, Land Use Control Laws, and Amendments for Ngarchelon State and for other purposes.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NGARCHELONG REPRESENTED IN THE ASSEMBLY.

SECTION 1: FINDINGS AND PURPOSE: It is the finding of the 20th Ngarchelon State Assembly that the future well-being of the citizens and residents of Ngarchelon State and the conservation of a beautiful, healthy, resourceful, and productive natural environment depends on better planning by the Ngarchelon State Government. Further, it is the finding of the Ngarchelon State Legislature that in accordance to Title 31 of the Palau National Code, Capital Improvement Project requests by Ngarchelon State Government should reflect the priorities of the Ngarchelon State Master Plan and justified accordingly. Further, it is the finding of the Ngarchelon State 20th Assembly that the regulation of the quality and types of structure place within the geographical bounds of Ngarchelon State is a prerogative of the Ngarchelon State Government. Further, it is the finding of Ngarchelon State 20th Assembly that Title 31 of the Palau National Code requires each State to create a Planning Commission by appropriate legislation with prescribed duties and responsibilities. It is therefore the purpose of this Act to establish a Commission whose tasks are to develop a Master Plan for Ngarchelon State, prepare subsidiary plans, prepare land use control laws to implement the Master Plan, evaluate the Master Plan and prepare amendments, and submit plans to the Ngarchelon State 20th Assembly and the Governor. The Master Plan shall
cover the entire State, account for social, economic, environmental, and cultural
considerations for better use of land, both public and private, to provide adequate
open spaces, to prevent undue concentration of population, to conserve and protect
the natural environment and its biodiversity, and to assure adequate provision for
community utilities
and facilities such as water, housing, schools, parks, transportation and
thoroughfares and other public requirements.

SECTION 2: Repeal. NSGPL No. 17 is hereby repealed.

SECTION 3: PLANNING COMMISSION. There is hereby established a
permanent entity to be called Ngarchelong State Planning Commission
(“Commission”). The Commission’s purview shall encompass the entire area of
Ngarchelong State. The Commission shall have such rights, powers, duties and
obligations as provided for and prescribed in this Act. There shall only be one (1)
Planning Commission for Ngarchelong State.

SECTION 4. MEMBERS. The Commission shall be composed of nine (9)
voting members. The Commission shall include three (3) non-voting (ex-officio)
members as follows:

A. Governor of Ngarchelong State or Designee
B. Planning Officer of the State Building, Zoning, and Planning Office
C. Speaker of Ngarchelong State Assembly or Designee

SECTION 5. QUALIFICATIONS OF MEMBERS. Members shall be a
citizen of Ngarchelong State. Shall be over the age of 21 and shall be active
members of the community. No public official, as defined in 33 PNC § 601 shall
be appointed as a voting member of the Commission.
SECTION 6. FAIR AND ADEQUATE REPRESENTATION. The Commission shall include fair and adequate representation of all segments of the population of Ngarchelong State.

SECTION 7. METHOD OF APPOINTMENT. Members are to be appointed as follows:

The Governor shall appoint the nine (9) members with advice and consent of the Assembly.

SECTION 8. REGIONAL PLANNING COMMISSION. One member from the Ngarchelong State Planning Commission shall be designated as the representative from Ngarchelong State to the Regional Planning Commission.

The Regional Planning Commission Member shall be designated by the Governor with approval of two-thirds (2/3) of the Ngarchelong State Master Plan Commission members.

SECTION 9. TERM. Commission members shall each have a term of two (2) years, commencing on the effective date of appointment and ending two (2) years thereafter. Members can be reappointed to the Commission for a total of two (2) terms.

SECTION 10. VACANCIES. A member may be removed from the Commission for inability to serve, neglect, misconduct, or gross inefficiency in office, by two thirds (2/3) of the Commission members. In the event of a vacancy for reason of death, disability, resignation, removal for any other reason, such vacancy shall be filled for the remainder of the unexpired term of the predecessor in the same manner as the original appointment, provided that more than one hundred eighty (180) days remain in the Commission’s term. In the event that the
vacancy is not filled until 180 days remains on the unexpired term, the seat shall
remain vacant until the next appointment.

SECTION 11. OFFICERS. The Commission shall elect, among its voting
members, the Chairman and such other officers of the Commission as may be
desired by approval of two thirds (2/3) of the voting members.

SECTION 12. QUORUM. Two thirds (2/3) of the voting members of the
Commission shall constitute a quorum to conduct the business of the Commission
duly called for that purpose. A majority vote of those present shall prevail on any
question presented, provided a quorum is present at the time. The Commission
may also adopt its own Rules of Procedure, provided they are not inconsistent
with the provisions of this Act, any Ngarchelrong State Laws, or Laws of the
Republic of Palau. Officers need to be physically present to count towards a
quorum.

SECTION 13. COMPENSATION AND REIMBURSEMENT. There shall
be no salary for any voting or non-voting members. There shall be no
compensation for Ex-Officio Members and advisors.

a. Voting members shall receive a stipend in the amount of twenty five
dollars ($25.00) per meeting.

b. There shall be no reimbursement for necessary expenditures that were
not planned and processed ahead of time. All expenditures of the
Commission shall follow the Ngarchelrong State Procurement Policy
and the Procurement Policy of the National Government.
SECTION 14. ORGANIZATIONAL AND OPERATIONAL PROCEDURES.

a. MEETINGS: The Commission shall hold meetings once a month or as deemed necessary to ensure expedited completion of the Ngarchelong State Master Plan.

b. AGENDAS: Commission meeting agendas shall be public documents. Meetings agendas shall be posted publicly at least 2 days prior to the scheduled meeting.

c. PUBLIC. Commission meetings shall be made public. A closed session may be called when discussing propriety, personal, or sensitive information.

d. MINUTES: Commission’s meeting minutes shall be public documents. Meeting minutes shall be posted publicly 7 days after a meeting.

e. COLLABORATION: The Commission shall collaborate with the Ngarchelong State Public Land Authority (NSPLA) by requiring the presence of the Chairman or a designated member of the NSPLA to sit in all meetings of the Planning Commission, hold joint meetings when necessary, and by sharing of minutes.

f. ETHICAL DISCLOSURE AND CONFLICTS OF INTEREST: Members shall disclose financial or personal interests in proposed decisions and recuse themselves from participating in decisions that directly influence their own interests.

g. DECISIONS: Decisions of the Commission shall be deemed final through a majority vote of the members present during
deliberations and discussions of the issue at hand given that there is a quorum to act on official business of the Commission.

SECTION 15. POWERS, DUTIES AND RESPONSIBILITIES. The Commission shall have the following powers, duties, and responsibilities:

a. It shall prepare, recommend and submit for adoption by the Ngarchelong State Assembly a proposed Ngarchelong State Master Plan for Ngarchelong State in accordance with section 15 of this Act, to include plans for utilization of public lands. The Master Plan shall be submitted to the Ngarchelong State Assembly prior to the close of Fiscal Year 2022 following the effective date of this Act;

b. It shall prepare, recommend and submit for adoption by the Ngarchelong State Assembly proposed Amendments to the Ngarchelong Master Plan if warranted, at least one every two years after the Master Plan goes into effect;

c. It shall prepare, recommend and submit for adoption by the Ngarchelong State Assembly proposed subsidiary plans and development programs as may be desirable for implementation of the Ngarchelong State Master Plan;

d. It shall prepare, recommend and submit for adoption by the Ngarchelong State Assembly proposed land use control and zoning laws, and subsequent amendments to those laws, for implementation of the Ngarchelong State Master Plan;

e. It shall prepare and submit for adoption by the Ngarchelong State Assembly annual recommendations concerning the Capital
Improvements Program, following priorities in the Master Plan, and
include an annual budget request for such capital improvements:

f. It shall conduct an official review of the entire Ngarchelong State
Master Plan and land use control laws at least every two years to
determine if revision is in order. The Commission shall prepare a
written report and formally advise the Governor and the
Ngarchelong State Assembly when the review is complete and
whether any amendments are proposed.

g. The Commission shall prepare an annual performance and
expenditure report and shall submit such report to the Governor
and the Assembly by September 30 of each year.

h. It shall ensure compliance by all persons with the provisions of this
Act and any other laws enacted pursuant thereto. It shall have the
power to conduct investigations and hold hearings, and in
connection with such investigations or hearings, may subpoena
witnesses, records, books and documents;

i. It shall prepare a written report to advise the Governor, the
Assembly and the Olbiil Era Kelulau regarding the development of
public lands within Ngarchelong State, following the findings and
priorities of the Ngarchelong State Master Plan. The written report
shall be prepared and/or updated and submitted upon adoption of
the Master Plan, subsequent amendments, or upon request from the
Governor, the Assembly, or the Olbiil Era Kelulau;

j. It shall recommend tracts of lands designated for homesteading
pursuant to law;
k. It shall, upon request, advise the Governor, the Assembly, and the Olbiil Era Kelulau on the use of lands in Ngarchelong State by non-citizens of the Republic of Palau, foreign corporations, other organizations and associations in which a non-citizen of the Republic of Palau owns an interest; or an agency of the United State Government or any foreign government;

l. It shall develop and implement a state master plan monitoring framework to track results, trends, and developments to be used in the review of and any amendment to the Ngarchelong State Master Plan.

m. It shall conduct whatever study or research and perform other such duties for the purpose of performing the tasks and duties of this Act;

n. It shall be empowered to receive gifts, grants-in-aid, and other financial support from any appropriate source and to enter into contractual agreements pursuant to its responsibilities pursuant to approval of Ngarchelong State Assembly and the availability of funds.

o. It shall be responsible for hiring and employment of professionals, experts or such other personnel necessary for carrying out the tasks and duties of the Commission.

SECTION 16. MASTER PLAN. The Master Plan means the Ngarchelon State Master Plan, body of texts, maps and descriptive, interpretive, and analytical materials, which constitute and comprehensively plan for the development of land, physical resources and facilities of Ngarchelon State. It shall include statement of
goals and objectives, standards, principles, maps, and social, economic, environmental, and cultural considerations. The Ngarchelong State Master Plan shall take into account typology, topography, climate, soil, and subsoil conditions, water courses, flood plains, watersheds, and bodies of water; disaggregated sex and income data; trend in the economy, demography, and other economic indicators of Ngarchelong State; the habits, environmental needs, customs, and standards of life of the people, and other economic indicators; the relation of land use in the state to the broader development of Ngarchelong State and the Republic of Palau. The Ngarchelong State Master Plan shall address and incorporate the Republic of Palau Master Plan and formally adopted National Policies. The Master Plan shall include the following elements:

a. A land use element showing the distribution, location, and extent of existing and proposed uses of land for housing, population density, employment trends, business, industry, agriculture, aquaculture, recreation, education, public buildings and grounds, parks, open green spaces, and other categories of public and private land use. The land use element shall include a statement of standards of population density and building intensity recommended for Ngarchelong State.

b. A transportation, circulation, and communication element showing the location, character, and extent of existing and proposed roads, harbors (docks), any local and public transportation and communication facilities.

c. A conservation element planning for the conservation, preservation, development, utilization and protection of natural
resources, including forests, agricultural and aquaculture areas,
soils, rivers, flood plains, watersheds and other waters, harbors,
fisheries, wildlife, genetic, species, and ecosystem biodiversity;
minerals, and other natural resources. The conservation element
may also cover reclamation of land and waters, flood control,
prevention and control of the pollution of streams and other waters,
prevention, control and correction of the erosion of soils, beaches
and shores, protection of watersheds, and climate change and
disaster risk assessment;
d. A recreation and historical preservation element showing the
location and proposed development of recreation sites such as
natural preserves, parks, beaches, playgrounds, historical and
cultural sites and areas of scenic and cultural importance and
significance;
e. A public services and utilities element showing general locations
for sewage, refuse disposal, drainage and local utilities, water
supply sources, electrical power sources, and rights-of-way,
easements, and facilities for them.
f. A public facilities element showing locations and arrangement of
civic and community centers, public schools, libraries, police and
fire substations, and other public service facilities and areas.
g. A community design element consisting of standards and
principles governing the subdivision of land and its location, and
showing recommended designs for community and neighborhood
development, including business, industry and commerce,
institutions, schools, parks and playgrounds;

h. A housing element consisting of standards and plans for the
improvement of housing provision of adequate sites of housing,
provision of affordable housing, and for zoning for residential,
commercial, industrial, and other relevant zones;
i. Identification of short, medium, and long term development goals
and objectives, location information by use for analysis, and a
prioritization of each category of development goals and objectives
of Ngarchelong State.

j. A community safety element for the protection of the community
from fire, rain, flood, wind, typhoon, tsunami, and earthquake
damage, including such features as shelter areas, peak load water
supply requirements, minimum road widths, clearances around
structures and optimum dwelling design and signage.

k. An economic development plan element that prioritizes private
development oriented to produce quality employment opportunities
and benefits, and

l. Any additional elements dealing with other subjects relating to the
physical development of Ngarchelong State.

SECTION 17. PUBLIC DISCLOSURE. The Commission shall publicly
disclose adopted Ngarchelong State Master Plan, subsidiary plans, land use control
laws, and amendments thereto;
a. The Commission shall arrange for and hold public hearings on the propose Ngarchelong State Master Plan prior to its approval by the Commission. Public notice of such hearings shall be made at least ten (10) days prior to the date of the hearings.

b. Copies of the Ngarchelong State Master Plan shall be transmitted to the Regional Planning Commission and to all States bordering Ngarchelong State or sharing resources with Ngarchelong State.

SECTION 18. APPEALS. The Commission shall prepare, recommend, and submit for adoption by the Ngarchelong State Assembly a proposed Appeals Process through which aggrieved individuals or businesses may petition the Ngarchelong State Commission for a variance or for reconsideration of a decision in the Ngarchelong State Master Plan, land use control and zoning laws, or Amendments. The Commission shall hear and decide appeals in a fair and transparent manner.

a. The Commission shall accept written petitions for zoning variances.

b. The Commission shall accept written and filed appeals for reconsideration of a decision of the Commission within thirty (30) days of the effective date of the decision.

c. The Commission shall meet within fifteen (15) days of the filing of an appeal or at publicly stated periodic intervals.
d. The Commission shall provide relevant officials any other person whose interest may be affected by the matter on appeal an opportunity to give oral testimony.

e. The Commission shall file all petitions and decisions and transmit them as Amendments to the Master Plan and land use control and zoning laws according to approved Appeals Processes.

f. Any person aggrieved by the decision of the Ngarchelong State Commission may apply to the appropriate court of law to review questions of the law. The Commission shall respond to any requests from an appropriate court of law.

SECTION 19. ENFORCEMENT. The Commission shall prepare, recommend and submit for adoption by the Assembly a proposed System of Enforcement to ensure compliance with Ngarchelong State Master Plan, land use control and zoning laws, or Amendments.

SECTION 20. ADVISORS. The Re-Teiai (Ngarchelong State’s Traditional Leaders) and the State Historian shall act as advisors of the Commission.

SECTION 21. ACCESS TO INFORMATION. All public officials, departments, boards, commissions, and other governing administrative bodies shall cooperate with the Ngarchelong State Commission by furnishing such information as the Commission may request to carry out its duties and responsibilities under this Act.

SECTION 22. ADOPTION. Upon submission of the Master Plan to the Olbiil Era Keliau, the Ngarchelong State Assembly shall, no later than sixty (60) days after submission of the proposed Ngarchelong State Master Plan, adopt or
reject such Plan. The Master Plan will become effective upon its adoption by the Assembly within 60 days and its subsequent approval by the Governor of Ngarchenlung State or upon becoming Law without such approval.

SECTION 23. IMPLEMENTATION OF MASTER PLAN VIA STATE GOVERNMENT BUILDING, ZONING, AND PLANNING OFFICE. The Office of the Governor shall create and staff a State Building, Zoning, and Planning Office within the Executive Branch to direct implementation of CIP Projects and perform other duties to implement the State Master Plan and ensure compliance with zoning laws and regulations. The State Building, Zoning, and Planning Office shall provide all assistance to the Planning Commission in execution of their duties as mandated by this Act. The Planning Officer shall be a member of the Commission as a non voting member.

SECTION 24. BUDGET. The Commission shall prepare and submit its first annual budget proposal to the Office of the Governor within ninety (90) days after the effective date of this Act. The budget appropriated and allocated to the Commission shall ensure that members of the Commission are paid stipends for the meetings held prior to the passage of the Budget. Furthermore, subsequent annual budget proposals shall be submitted to the Office of the Governor no later than March 30 of each Fiscal Year. The Commission shall advise and consult with the State Planning Office in the determination of their respective budget proposals.

SECTION 25. SEVERITY. In the event that a court of competent jurisdiction determines that any portions of this Act are invalid, the remaining portions of this Act shall continue in full force and effect.
SECTION 26. EFFECTIVE DATE. This Act shall take effect when adopted by the Ngarchelong State Assembly and upon approval by the Governor of Ngarchelong State or upon becoming Law without such approval.

Passed: August 19, 2021

Approved this 30th day of August, 2021.

Richard Ngiratrang
Governor
Ngarchelong State