

1994—No. 635

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT
1979—ORDER**

NEW SOUTH WALES



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I, the Minister for Planning, in pursuance of section 33 of the Environmental Planning and Assessment Act 1979, make the order set out in the following Schedule.

ROBERT WEBSTER MLC
Minister for Planning.

Sydney, 6 December 1994.

SCHEDULE

Commencement

1. This order takes effect on and from 16 December 1994.

Amendment of Environmental Planning and Assessment Model Provisions 1980

2. The Environmental Planning and Assessment Model Provisions 1980 are amended by omitting clause 8 (6) and by inserting instead the following subclause:

(6) It is a sufficient defence to proceedings under this clause relating to the ring-barking, cutting down, topping, lopping, removal, injury or wilful destruction of a tree to prove:

- (a) that the tree was dying or dead or had become dangerous; or
- (b) that taking the action was reasonably necessary to protect human life, buildings or other property from imminent danger from a bush fire burning in the vicinity of the land on which the tree was situated; or

- (c) that written notice about the proposed action was given to the council of the area in which the tree was situated and the council, before the action was taken, confirmed in writing:
 - (i) that the tree was in a fuel free zone within the meaning of the document entitled “Planning for Bush Fire Protection” published by the Department of Bush Fire Services; and
 - (ii) that, if the council has classified species of trees as being likely to present a significant fire hazard, the tree was of such a species; or
- (d) that written notice about the proposed action was given to that council, a period of not less than 14 days occurred after the notice was given (and before the action was taken) and the council did not advise the person during that period that it opposed the action being taken.

In this subclause, **“notice”** means a notice that includes the name and address of the person who gives it and that explains that a tree of a named species situated in a specified position on land described in the notice is intended to be ring-barked, cut down, topped, lopped, removed, injured or wilfully destroyed for the purpose of bush fire hazard reduction.
