



New South Wales

# Environmental Planning and Water Legislation Amendment Act 1996 No 31

## Contents

---

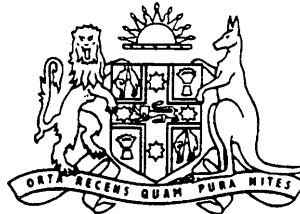
	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Environmental Planning and Assessment Act 1979 No 203	2
4 Amendment of Water Act 1912 No 44	2

---

Schedules

1 Amendment of Environmental Planning and Assessment Act 1979	3
2 Amendment of Water Act 1912	6

---



New South Wales

# **Environmental Planning and Water Legislation Amendment Act 1996 No 31**

Act No 31, 1996

---

An Act to amend the *Environmental Planning and Assessment Act 1979* and the *Water Act 1912* with respect to the joint consideration of matters arising under those Acts. [Assented to 24 June 1996]

---

**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Environmental Planning and Water Legislation Amendment Act 1996*.

**2 Commencement**

This Act commences on the date of assent.

**3 Amendment of Environmental Planning and Assessment Act 1979 No 203**

The *Environmental Planning and Assessment Act 1979* is amended as set out in Schedule 1.

**4 Amendment of Water Act 1912 No 44**

The *Water Act 1912* is amended as set out in Schedule 2.

---

## **Schedule 1    Amendment of Environmental Planning and Assessment Act 1979**

(Section 3)

### **[1]    Section 120 Procedure at inquiries**

Insert after section 120 (11):

- (12) This section is subject to section 120A.

### **[2]    Section 120A**

Insert after section 120:

#### **120A Additional procedural requirements where water licence is involved**

- (1) A Commission of Inquiry must cause notice to be given to the Water Administration Ministerial Corporation if, before or at any time up to the conclusion of an inquiry held by it into:
- (a) the environmental aspects of any proposed development the subject of a development application, whether or not it is designated development, or
  - (b) the environmental aspects of any activity referred to in section 112 (1),
- it is of the opinion that the development or activity involves a work that may require a water licence.
- (2) For the purposes of subsection (1), an inquiry concludes when the Commission of Inquiry provides its report on the inquiry to the Minister under section 119 (6), regardless of when any public hearings conducted in connection with the inquiry are concluded.
- (3) The Commission of Inquiry must also cause notice to be given to the applicant for the development, or the proponent of the activity, advising that an application for a water licence should be made promptly if it has not already been made.

- (4) The Commission of Inquiry must defer concluding its inquiry for sufficient time to enable the applicant or proponent to make an application for a water licence under section 10, and for objectors to lodge objections in accordance with section 11, of the *Water Act 1912*.
- (5) As soon as practicable after the applicant's or proponent's application for a water licence is referred to it by the Water Administration Ministerial Corporation under section 11A of the *Water Act 1912*, the Commission of Inquiry must give at least 14 days' notice, by advertisement published in the Gazette and in such newspapers as it thinks necessary, of its intention to hold a public hearing in connection with the application and of the time and place at which that hearing is to be held.
- (6) The advertisement under subsection (5) may, but need not, form part of the advertisement referred to in section 120(2).
- (7) In addition to considering any submissions that are made to it in the course of its inquiry, the Commission of Inquiry must consider:
  - (a) the application for a water licence, and
  - (b) any objection to the granting of a water licence that has been referred to it under section 11A of the *Water Act 1912*.
- (8) In any report prepared by it under section 119 (6), the Commission of Inquiry must include findings and recommendations with respect to:
  - (a) the question of whether or not a water licence should be granted, and
  - (b) the period, term, limitations and conditions of any such licence.
- (9) The Commission of Inquiry must cause a copy of any such report to be given to the Water Administration Ministerial Corporation.

- (10) This section extends to any inquiry that had been begun by a Commission of Inquiry, but in respect of which a report had yet to be made under section 119 (6), as at the commencement of this section.
- (11) The regulations may make further provision for or with respect to the procedure of a Commission of Inquiry in relation to those aspects of its inquiry that relate to the granting of a water licence.
- (12) In this section, *water licence* means a licence under Division 3 of Part 2 of the *Water Act 1912*.

## **Schedule 2 Amendment of Water Act 1912**

(Section 4)

### **[1] Section 11 Notification of application for licence**

Insert after section 11 (6):

- (7) This section is subject to section 11A.

### **[2] Section 11A**

Insert after section 11:

#### **11A Determination of applications affected by public inquiries under the Environmental Planning and Assessment Act 1979**

- (1) This section applies to any application under section 10 that concerns a work in respect of which a Commission of Inquiry has given a section 120A notice to the Ministerial Corporation before the Ministerial Corporation makes its decision on the application under section 11 (3).
- (2) The Ministerial Corporation:
- (a) must refer to the Commission of Inquiry:
- (i) the application (including any accompanying particulars referred to in section 10 (3)), and
- (ii) any objection to the granting of a licence that is duly lodged in connection with the application,
- whether the application or objection is made or lodged before or after the section 120A notice is received, and
- (b) must defer making any decision on the application under section 11 (3) until it receives the Commission of Inquiry's section 119 report.

- (3) In making its decision on the application under section 11 (3), the Ministerial Corporation must have regard to the findings and recommendations contained in the Commission of Inquiry's section 119 report.
- (4) The Ministerial Corporation's decision under section 11 (3) on the application is final, and the provisions of section 11 (4), (5) and (6) do not have effect in relation to that decision.
- (5) This section extends to applications made before the commencement of this section.
- (6) In this section:

*Commission of Inquiry* means a Commission of Inquiry constituted under section 119 of the *Environmental Planning and Assessment Act 1979*.

*section 119 report* means a report referred to in section 119 (6) of the *Environmental Planning and Assessment Act 1979*.

*section 120A notice* means a notice referred to in section 120A (1) of the *Environmental Planning and Assessment Act 1979*.

[Minister's second reading speech made in—  
Legislative Assembly on 6 June 1996  
Legislative Council on 20 June 1996]