

[Act 1997 No 81]



New South Wales

Environmental Planning and Assessment Legislation Amendment Bill 1997

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

Overview of Bill

The object of this Bill is to amend the *Environmental Planning and Assessment Act 1979* and the *Land and Environment Court Act 1979* so as:

- (a) to limit the mandatory requirements to be complied with as regards ministerial development consents, and
- (b) to provide a scheme by which ministerial development consents can, if they are challenged in proceedings before the Land and Environment Court, be validated on compliance with terms determined by the Court.

Development consents granted by the Minister for Urban Affairs and Planning, generally relate to projects of State significance.

* Amended in committee—see table at end of volume.

Outline of provisions

Clause 1 specifies the name (also called the short title) of the proposed Act.

Clause 2 provides for the proposed Act to commence on a day or days to be proclaimed.

Clauses 3 and 4 are formal provisions giving effect to the Schedules of amendments.

Schedule 1 Amendment of Environmental Planning and Assessment Act 1979

Schedule 1 [1] amends section 4 to insert a definition of *advertised development*. The definition is used in proposed section 104B, which prescribes the mandatory requirements to be observed in connection with designated development and advertised development.

Schedule 1 [2] inserts sections 104B, 104C and 104D.

Proposed section 104B limits the mandatory requirements to be complied with as regards ministerial development consents to those relating to the period during which development applications for designated development or advertised development must be publicly exhibited.

Proposed section 104C empowers the regrant of ministerial development consents in conformity with terms specified by the Land and Environment Court.

Proposed section 104D makes it clear that an appeal does not lie against a validated or regranted development consent, and states that a validated consent is effective from the date of the original grant and that a regranted development consent is effective from the date it is declared to be validly regranted.

Schedule [3] amends section 124 to make it clear that the provisions relating to orders that can be made by the Land and Environment Court do not limit the new powers proposed to be conferred on the Court.

**Schedule 2 Amendment of Land and Environment Court
Act 1979**

The Schedule inserts Division 3 into Part 3 of the Act. The proposed Division empowers the Land and Environment Court to make orders suspending a ministerial development consent and specifying terms that, if complied with, will ensure the validity of the consent, either in its current form or in a different form following its regrant. The Court is under a duty to consider making such an order instead of declaring the consent to be invalid.