

[Act 1995 No 55]



New South Wales

# **Tweed River Entrance Sand Bypassing Bill 1995**

## **Explanatory note**

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

### **Overview of Bill**

The object of this Bill is to provide for the carrying out of agreements between the States of New South Wales and Queensland with regard to improving the navigability of the entrance of the Tweed River and the bypassing of sand around that entrance so that it can replenish the southern Queensland beaches.

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## Outline of provisions

### **Part 1 Preliminary**

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent.

**Clause 3** states the purpose of the proposed Act.

**Clause 4** defines certain terms for the purposes of the proposed Act. The “heads of agreement” means the agreement entered into on behalf of the States of New South Wales and Queensland a copy of which is set out in Schedule 2. The “deed of agreement” means the deed entered into on behalf of those States to give effect to the heads of agreement. A copy of the deed of agreement is set out in Schedule 1. “The works” is defined as the works to be carried out, maintained or constructed to give effect to the deed of agreement and such further agreements as may be made between those States for the purpose of giving effect to the heads of agreement or for any ancillary purpose.

### **Part 2 Agreements**

**Clause 5** provides that the execution of the heads of agreement by the Premier and of the deed of agreement by the Minister for Public Works is ratified and both agreements are approved. References to the Minister for Public Works in both of those instruments are to be construed as references to the Minister administering the proposed Act.

**Clause 6** provides for the approval of any further agreement entered into on behalf of the State of New South Wales that is certified by the Minister for Land and Water Conservation (“the Minister”) to be for the purpose of giving effect to the heads of agreement or for any ancillary purpose. Any such further agreement will not be approved if either House of Parliament disapproves the agreement within 21 days of its being tabled before the House.

**Clause 7** authorises the Minister to enter into contractual arrangements in various capacities for the carrying out of the works.

### **Part 3 Implementation**

**Clause 8** authorises the implementation of the deed of agreement and each further agreement entered into for the purpose of carrying out the heads of agreement.

**Clause 9** provides for the application of certain provisions of the *Public Works Act 1912* to the works and for the acquisition of land under that Act by the Minister. Land may be acquired for the purposes of the works by agreement or compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*. The proposed section also provides that pre-acquisition procedures of the *Land Acquisition (Just Terms Compensation) Act 1991* (such as the requirement to give notice to the owner of the land) do not apply to the acquisition of land by compulsory process if the Minister certifies to the Governor that it is appropriate for the purposes of the works that those procedures not apply to the acquisition.

**Clause 10** provides for the application of the *Environmental Planning and Assessment Act 1979* to the works. The carrying out of the works is to be an activity for the purposes of Part 5 of that Act and the Minister is to be the determining authority for the purposes of that Part. The proposed section provides that so much of the works as was the subject of an environmental impact statement publicly exhibited before the commencement of the proposed section is taken to be maintenance dredging within the meaning of State Environmental Planning Policy No. 35—Maintenance Dredging of Tidal Waterways. The approval of the Minister for Urban Affairs and Planning will be required for so much of the works as do not consist of maintenance dredging. A saving provision in relation to that environmental impact statement is also included.

### **Part 4 Miscellaneous**

**Clause 11** protects the Minister, and any individual engaged, or performing any function, in connection with the carrying out of the works, from personal liability for things done or omitted to be done in good faith for the purpose of carrying out the works. The proposed section also provides that no action for nuisance in relation to the carrying out of the works may be brought against the State, the Minister or any individual or corporation carrying out the works or performing any function in connection with the carrying out of the works.

**Clause 12** provides a right to compensation if land that has been acquired for the purposes of the works is later found to be have been claimable Crown land. If that land had not been so acquired, it would have been transferred to the claimant under the *Aboriginal Land Rights Act 1983*. The compensation is to be determined in accordance with the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*.

**Clause 13** provides that the proposed Act binds the Crown.

**Clause 14** requires the Minister to review the proposed Act after 5 years from the date of assent to the proposed Act to determine whether the policy objectives of the proposed Act remain valid and whether the terms of the proposed Act remain appropriate for securing those objectives.

## Schedules

**Schedule 1** contains a copy of the deed of agreement.

**Schedule 2** contains a copy of the heads of agreement.

**Schedule 3** will contain a copy of each further agreement entered into by the Minister if the agreement has been approved by the operation of proposed section 6.