

Act 1993 No. 93

**ENVIRONMENTAL PLANNING AND ASSESSMENT (PART 5)  
AMENDMENT BILL 1993\***

NEW SOUTH WALES



**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

Part 5 of the Environmental Planning and Assessment Act 1979 sets out the environmental assessment obligations of government agencies which propose to carry out, or propose to approve of others carrying out, activities which do not require development consent (and which therefore are not subject to environmental assessment under Part 4 of that Act by the council or other authority granting consent). If the activity is likely to significantly affect the environment, the agency is required to obtain an environmental impact statement, place it on public exhibition and take account of responses to the statement. Typical examples of such activities are the construction of freeways, logging operations, and other major public works.

The object of this Bill is to amend the Environmental Planning and Assessment Act 1979 to provide that, where a Government agency is both the proponent and the determining authority for any activity for which an environmental impact statement has been obtained under Part 5 of that Act, the Minister for Planning and not the agency will finally decide whether the activity may proceed and any conditions to which it will be subject following the examination of the statement and public responses to it.

The principal features of the Bill are as follows:

- (a) The obligation to refer the proposed activity to the Minister for Planning will arise only where the agency obtains an environmental impact statement because the activity is likely to significantly affect the environment.
- (b) That obligation will arise only if the agency is the proponent of the activity. The Forestry Commission is declared to be the proponent of all forestry activities authorised by it on land under its management. Similar declarations in respect of other agencies may be made by the regulations or by the Minister for Planning.

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

- (c) The obligation to refer a proposed activity to the Minister for Planning will not apply if the agency is a council, county council or other specially excluded body.
- (d) After an agency obtains an environmental impact statement, the agency will be required to publicly exhibit the statement and consider the public responses to it before deciding whether to proceed with the activity and referring it to the Minister for Planning.
- (e) Before the Minister for Planning makes a decision on whether the activity should proceed, the Director of Planning is to prepare a public report on the matter. The Minister for Planning is to have regard to that report, any report of a public inquiry and any submission from the Minister with the relevant portfolio responsibility for the activity.
- (f) The Minister for Planning may approve of the activity (with or without conditions) or disapprove of the activity. For that purpose, the Minister is to review the decision of the agency having regard to the environmental assessment of the activity and the rights and obligations, of the agency.
- (g) The Director of Planning will be required to prepare a report within 3 months and the Minister for Planning will be required to make a decision on the matter within 21 days.
- (h) The power of the Minister for Planning to instigate a public inquiry by a Commissioner under the Act is not affected—before the Minister for Planning determines the matter the relevant agency will be required to reconsider the proposed activity having regard to the findings of the inquiry.
- (i) The new procedures will not apply to environmental impact statements that have already been prepared or that are currently being prepared in accordance with the requirements of the Director of Planning, unless the Minister for Planning directs that the new procedures are to apply.

Bill makes consequential amendments to the Timber Industry (Interim Protection) Act 1992 which includes interim measures for the Minister for Planning to approve of logging operations to which that Act applies (the approval of the Minister for Planning for those logging operations will continue to be required under the Bill).

The Bill also makes consequential amendments to the State Owned Corporations Act 1989 (which provides that Part 5 of the EPA Act applies instead of Part 4 for significant State or regional development certified by the Minister for Planning and provides for the portfolio Minister of the State owned corporation to determine the development). The Bill will enable the Minister for Planning to decide in those cases whether an environmental impact statement is required and to determine the development under the new arrangements in the place of the portfolio Minister.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the commencement of the several provisions of the proposed Act.

**Clause 3** is a formal provision that gives effect to the amendments to the Environmental Planning and Assessment Act 1979 in Schedule 1.

**Clause 4** is a formal provision that gives effect to the consequential amendments to the State Owned Corporations Act 1989 and the Timber Industry (Interim Protection) Act 1992 in Schedule 2.

**Schedules 1 and 2** make the amendments set out above.

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