



New South Wales

Environmental Planning and Assessment Amendment (Development Consents) Bill 2003

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 *Environmental Planning and Assessment Regulation 2000*:

- (a) to enable the Minister for Infrastructure and Planning to extend the period within which work must be commenced before development consent for certain State significant development lapses, and
- (b) to provide for the voluntary surrender of development consents.

The Bill also makes some related minor amendments to the *Environmental Planning and Assessment Act 1979*.

Outline of provisions

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

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

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

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

Clause 4 is a formal provision that gives effect to the amendments to the *Environmental Planning and Assessment Regulation 2000* set out in Schedule 2.

Schedule 1 Amendment of Environmental Planning and Assessment Act 1979

Extension of lapsing period for consent for State significant development

Schedule 1 [3] inserts proposed section 95B into the Principal Act. The proposed section will enable an applicant or any other person entitled to act on a development consent for State significant development other than staged development to apply to the Minister for Infrastructure and Planning for one or more extensions (not exceeding 3 years in total) of the 5 year period in which the consent will lapse if building, engineering or construction work or use of the land to which the consent applies has not commenced (the *lapsing period*). An application must be made within 12 months before the lapsing period (or lapsing period as previously extended under the proposed section) lapses. The Minister will be able to grant an extension if satisfied that the development consent may lapse because there is, has been or may be, delay in physically commencing building, engineering or construction work, or use, of all or part of the land that arises from or is related to one or more relevant legal proceedings (as defined in the proposed section) and that there is otherwise good cause. An extension may be for a period commensurate with the period of the delay but must not extend the lapsing period to more than 8 years from the date from which the consent operates.

Schedule 2 [3] makes a consequential amendment to insert proposed clause 114A into the *Environmental Planning and Assessment Regulation 2000* to require an application for an extension of the lapsing period to be in writing and to contain certain information.

Voluntary surrender of development consents

Schedule 1 [4] inserts proposed section 104A into the Principal Act to enable a development consent to be voluntarily surrendered (subject to and in accordance with the regulations) by any person entitled to act on the consent. A development consent may be surrendered even if, on the making of an appeal under section 97 or 98 of the Act, it has ceased to be or does not become effective under

section 83 (2). (In such circumstances, the Land and Environment Court may make such orders as it considers appropriate under section 23 of the *Land and Environment Court Act 1979*). **Schedule 2 [1] and [2]** amend clause 97 of the *Environmental Planning and Assessment Regulation 2000* to require a notice of surrender setting out certain specified information to be given to the consent authority and to state when a surrender has effect. If development has commenced to be carried out, a surrender will have effect only if the consent authority determines that any condition of the consent, or any agreement with the consent authority relating to the consent, that is relevant to so much of the development as has been carried out has been complied with and that the surrender will not have an adverse impact on any third party or the locality.

Savings, transitional and other provisions

Schedule 1 [5] amends Schedule 6 to the Principal Act to enable the making of regulations of a savings and transitional nature as a consequence of the enactment of the proposed Act.

Schedule 1 [6] inserts proposed clauses 64 and 65 into Schedule 6 to the Principal Act to make it clear that proposed sections 95B and 104A, respectively, extend to certain development consents granted and applications made before the commencement of the proposed sections. The development consents concerned extend to those granted as a result of savings and transitional regulations made as a consequence of the enactment of the *Environmental Planning and Assessment Amendment Act 1997* (which commenced on 1 July 1998).

Related amendments

Schedule 1 [1] and [2] amend section 95 of the Principal Act to make it clear that the power to vary the lapsing periods for development consents under that section is limited to reduction of the periods referred to in that section.

Schedule 2 Consequential amendment of Environmental Planning and Assessment Regulation 2000

Schedule 2 contains the amendments described above to the *Environmental Planning and Assessment Regulation 2000*.