

Pipelines Amendment Bill 2006

Explanatory note

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

Overview of Bill

The object of the Bill is to simplify the system of approvals under the *Pipelines Act 1967* (**the Principal Act**) relating to the construction and operation of pipelines and to integrate the system with the development approval process under the *Environmental Planning and Assessment Act 1979* (**the EP&A Act**).

In particular the Bill:

- (a) ends the permit scheme under the Principal Act, and
- (b) transfers from the Governor to the Minister functions that are part of the day-to-day implementation of the Principal Act, and
- (c) simplifies and streamlines the licensing process under the Principal Act, and
- (d) enables the EP&A Act to apply with respect to the construction and operation of a pipeline to which the Principal Act applies, and
- (e) facilitates the licensing under the Principal Act of pipelines that are the subject of approvals under Part 3A of the EP&A Act.

Outline of provisions

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 a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the Principal Act set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the EP&A Act set out in Schedule 2.

Clause 5 provides for the repeal of the proposed Act after the amendments made by the proposed Act have commenced. Once the amendments have commenced, the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of the amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Pipelines Act 1967

Division 2 of Part 2 of the Principal Act provides for the granting of permits to enter lands for the purpose of determining the route of a proposed pipeline and carrying out associated activities. **Schedule 1 [29]** of the Bill repeals Division 2 to end the permit scheme. **Schedule 1 [28]** substitutes section 5H of the Principal Act so that the rights conferred by an authority to survey under that Act include the rights currently conferred by a permit. **Schedule 1 [26]** amends section 5E of the Principal Act to simplify the provision and to make it clear that an application under that section is for an authority to survey. Schedule 1 also makes amendments consequential on the ending of the permit scheme. (See **Schedule 1 [1], [8]–[11], [18], [25], [33], [36], [40], [43], [48], [57], [80], [82]–[90], [94]–[96], [98], [99], [102], [103], [108], [110], [111] and [113].**)

Schedule 1 amends the Principal Act to confer on the Minister functions that that Act currently confers on the Governor (other than the making of regulations) and makes consequential amendments, including with respect to the delegation and sub-delegation of those functions. (See **Schedule 1 [4], [12], [13], [16], [17], [19]–[22], [51], [52], [55], [62]–[66], [70]–[72] and [75]–[78].**)

Schedule 1 [15] amends section 5 of the Principal Act so that a person is not required to hold a licence under that Act in respect of a pipeline for the supply of water or the conveyance of, among other specified substances, waste water or mine water.

Schedule 1 [23] amends section 5C of the Principal Act so that the membership of a pipeline committee appointed under the Act is no longer prescribed by the Act but is instead a matter for the Minister's discretion. **Schedule 1 [24]** substitutes section 5D

of the Principal Act in relation to the functions of pipeline committees as a consequence of the ending of the permit scheme under that Act. It also omits from the functions of pipeline committees the function of advising the Minister specifically in relation to the granting of licences and confers a more general advising function on those committees.

Schedule 1 amends the Principal Act so that it no longer requires copies of applications under that Act to be given to particular Ministers. However, regulations under that Act will be able to provide that notice of the applications must be given to prescribed public authorities. (See **Schedule 1** [35], [37], [39], [44], [45], [47], [50], [58], [59] and [61].)

Schedule 1 [54] amends section 17 of the Principal Act so that a licence under that Act remains in force indefinitely (subject to it being cancelled or surrendered) and may be reviewed by the Minister at intervals not exceeding 21 years. (Currently, licences must be issued for a specified term (not exceeding 21 years).) **Schedule 1** [10] and [53] make consequential amendments.

Schedule 1 [27], [34], [38], [42], [46], [56], [60], [68], [91] and [107] amend the Principal Act to remove the current requirement for various applications and instruments under that Act to be in a prescribed form.

Schedule 1 [114]–[116] amend section 69 of the Principal Act to enable regulations under that Act to prescribe particulars to be included in a notification under the Act and apply, adopt or incorporate the provisions of particular publications of Standards Australia as in force from time to time.

Currently, the Principal Act provides that it does not require a person to hold a licence under that Act in respect of a pipeline constructed or to be constructed under, or under an authority granted under, any Act other than the Principal Act. It also provides that the EP&A Act does not apply to or in respect of any matter relating to the construction or operation of a pipeline except the granting of a permit under the Principal Act. **Schedule 1** [14] amends section 5 of the Principal Act so that the fact that a pipeline is, or is to be, constructed under an approval or authority under the EP&A Act does not exempt a person from the requirement to hold a licence in respect of the pipeline under the Principal Act. (The amendment also omits from section 5 a reference to the *Dangerous Goods Act 1975*, which has been repealed.) **Schedule 1** [79] amends section 40 of the Principal Act to enable the operation of the EP&A Act in relation to the construction or operation of a pipeline.

Schedule 1 [7] amends the definition of “public authority” in the Principal Act so that the definition lists the bodies that are currently defined separately by the Principal Act as statutory bodies representing the Crown. (The amendment also updates references to some of those bodies.) As a consequence of that amendment, **Schedule 1** [1] omits the definition of “statutory body representing the Crown” from the Principal Act. **Schedule 1** [3], [5] and [6] make other associated consequential amendments.

Schedule 1 [117] and [118] are savings and transitional provisions consequent on the enactment of the Bill.

Schedule 1 [2], [30]–[32], [41], [49], [67], [69], [73], [74], [81], [92], [93], [97], [100], [101], [104]–[106], [109] and [112] make minor statute law revision amendments to the Principal Act.

Schedule 2 Amendment of Environmental Planning and Assessment Act 1979

Schedule 2 of the Bill amends section 75V of the EP&A Act so that a licence under the Principal Act cannot be refused if it is necessary for carrying out a project approved under Part 3A of the EP&A Act and the licence is to be substantially consistent with the Part 3A approval.