



New South Wales

# Protection of the Environment Operations Amendment (Prosecutions) Bill 2013

## Explanatory note

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

## Overview of Bill

The object of this Bill is to transfer the power to prosecute serious environmental offences from the Environment Protection Authority to the Director of Public Prosecutions and the Attorney General. That object is achieved by:

- (a) requiring the Environment Protection Authority to inform the Director of Public Prosecutions if, as a result of the Authority's investigations, there is a prima facie case in relation to a serious environmental offence, and
- (b) providing that serious environmental offences can be prosecuted only by the Director of Public Prosecutions or the Attorney General.

## 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 the date of assent to the proposed Act.

## Schedule 1      Amendment of Protection of the Environment Operations Act 1997 No 156

**Schedule 1 [1]** requires the Environment Protection Authority to inform the Director of Public Prosecutions if, as a result of the Authority's investigations, there is a prima facie case in relation to a serious environmental offence (a tier 1 offence under Part 5.2 of the *Protection of the Environment Operations Act 1997*). Should the Authority not be able to determine whether or not

a serious environmental offence has been committed, the proposed amendment requires the Authority to advise the Director of Public Prosecutions of that fact. The Director will determine the appropriate offence for which an alleged offender is to be prosecuted and is empowered to commence proceedings (in the case of a tier 1 offence).

**Schedule 1 [2]** provides that tier 1 offences can be prosecuted only by the Director of Public Prosecutions or the Attorney General.

**Schedule 1 [3] and [4]** make consequential amendments, so that existing provisions about who may institute proceedings for offences apply only to offences that are not tier 1 offences.