



New South Wales

Planning Legislation Amendment Bill 2019

Explanatory note

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

Overview of Bill

The object of this Bill is to make miscellaneous amendments to the *Environmental Planning and Assessment Act 1979* and instruments made under that Act and to make minor amendments to the *Land and Environment Court Act 1979*.

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.

Schedule 1 Amendment of Acts and instruments

Schedule 1.1 [1] and [2] amend section 3.20 of the *Environmental Planning and Assessment Act 1979* (the **Planning Act**) to provide that requirements or guidance as to the form or content of an environmental planning instrument that adopts the mandatory provisions of the standard instrument (a **standard local environmental plan**) may be included in a standard instrument order (currently the *Standard Instrument (Local Environmental Plans) Order 2006*). The amendments also provide that those requirements and guidance may be in the form of directions and that they continue to apply to a standard local environmental plan after the plan is made. The amendments also permit a standard instrument order to authorise minor consequential amendments to a standard local environmental plan when amendments to the order are automatically incorporated into the plan.

Schedule 1.1 [3] removes an inconsistency between the period specified in section 5.8 of the Planning Act as the minimum period for public examination of an environmental impact statement (being 30 days) and the mandatory community participation requirements that are specified in clause 11 of Schedule 1 to that Act (being 28 days).

Schedule 1.1 [4]–[6] bring provisions relating to applications for approval for staged State significant infrastructure into line with provisions relating to applications for consent for staged State significant development.

Schedule 1.1 [7] and [8] clarify that an occupation certificate may be issued for the occupation and use of a new part of a new building or a new part of an existing building.

Schedule 1.2 amends the *Land and Environment Court Act 1979* to make amendments consequential on the renumbering of the Planning Act by the *Environmental Planning and Assessment Amendment Act 2017* (the **2017 Amendment Act**).

Schedule 1.3 amends the *Standard Instrument (Local Environmental Plans) Order 2006* (the **Standard Instrument Order**) and the standard instrument for a principal local environmental plan set out at the end of the Order (the **Standard Instrument**).

Schedule 1.3 [1]–[3], [5], [6], [17]–[19] and [21] make amendments consequential on the renumbering of the Planning Act by the 2017 Amendment Act. **Schedule 1.3 [4]** omits a provision that is redundant because of the repeal of sections 64 and 65 of the Planning Act. **Schedule 1.3 [16]** is consequential on the 2017 Amendment Act changing references in the Planning Act from the Secretary to the Planning Secretary.

Schedule 1.3 [7] omits a reference to a repealed Part.

Schedule 1.3 [8] and [9] update a direction in the Standard Instrument Order to ensure that it reflects how standard local environmental plans are laid out.

Schedule 1.3 [10] updates a direction in the Standard Instrument to take account of new land uses included in the Standard Instrument by the *Standard Instrument (Local Environmental Plans) Amendment (Primary Production and Rural Development) Order 2019*.

Schedule 1.3 [11] inserts a new direction in the Standard Instrument to provide for how automatic incorporation of amendments is to occur if an amendment to the Standard Instrument requires a land use to be placed in 1 of 2 locations.

Schedule 1.3 [12] and [13] omit a direction requiring a land use to be placed in a certain location in a Land Use Table and instead places that land use in that location.

Schedule 1.3 [14] removes an incorrect note.

Schedule 1.3 [15], [20], [22] and [23] make amendments consequential on the repeal of the *Crown Lands Act 1989* and its replacement by the *Crown Land Management Act 2016*.

Schedule 1.4 corrects an incorrect adoption of a standard provision. Under section 3.20 of the Planning Act, a local environmental plan can adopt an optional provision of the Standard Instrument. However, when this is done the provision must be adopted in the form set out in the Standard Instrument. The proposed amendment re-adopts an optional provision that was incorrectly adopted. **Schedule 1.5** inserts a savings provision that protects any development consent granted based on the incorrectly adopted provision.

Schedule 1.6 moves an item in a heritage table so that it is correctly located.

Schedule 2 Amendments consequential on commencement of Environmental Planning and Assessment Amendment Act 2017

Schedule 2 makes amendments to a number of instruments consequential on the amendments made to the Planning Act by the 2017 Amendment Act and in particular the renumbering of the Planning Act.

Schedule 3 Amendments consequential on commencement of Crown Land Management Act 2016

Schedule 3 makes amendments to a number of environmental planning instruments consequential on the repeal of the *Crown Lands Act 1989* and the *Western Lands Act 1901* and their replacement by the *Crown Land Management Act 2016*.

Schedule 4 Amendments consequential on commencement of Standard Instrument (Local Environmental Plans) Amendment (Primary Production and Rural Development) Order 2019

Schedule 4 makes a consequential amendment to a number of standard local environmental plans as a result of amendments made to the Standard Instrument Order by the *Standard Instrument (Local Environmental Plans) Amendment (Primary Production and Rural Development) Order 2019*.

Schedule 5 Miscellaneous amendments to instruments that are generally in accordance with standard instrument

Schedule 5 amends 3 environmental planning instruments that are not standard local environmental plans but which are generally in accordance with standard local environmental plans. The amendments are consistent with the amendments proposed to be made to the Standard Instrument by Schedule 1.3.

Schedule 6 Miscellaneous amendments to standardised provisions of environmental planning instruments

Schedule 6 makes amendments to standardised provisions (being provisions that are not included in the Standard Instrument but which are similar in many standard local environmental plans) consequential on the renumbering of the Planning Act by the 2017 Amendment Act and the repeal of the *Crown Lands Act 1989* and its replacement by the *Crown Land Management Act 2016*.