



New South Wales

Environmental Planning and Assessment Amendment (Development Consents) Bill 2010

Explanatory note

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

Overview of Bill

The object of this Bill is to facilitate the carrying out of development that has previously been approved by removing in certain circumstances any reduction of the maximum period of 5 years during which the development consent does not lapse pending the carrying out of the development.

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.

Clause 3 amends the *Environmental Planning and Assessment Act 1979* (the *Principal Act*) in relation to the lapsing of development consents.

Under section 95 of the Principal Act, a development consent lapses 5 years after the date from which it operates if the development is not commenced within that period. However, a consent authority may reduce that period when it grants development consent. The amendment made by clause 3 (1) ensures that any reduction that applies to an existing development consent that operates before, and lapses after,

22 April 2010 (the date the Bill is introduced into Parliament) is to be disregarded, so that the maximum lapsing period of 5 years will apply to the development consent instead. The amendment also ensures that a reduction in the maximum lapsing period of 5 years cannot be made for any development consent granted after the commencement of the proposed Act and before 1 July 2011. The amendment also enables the regulations to make similar provision in future, so that the maximum lapsing period of 5 years will also apply to development consents that operate during future periods prescribed by the regulations. The Bill does not apply to development consents that were subject to a reduction and that lapsed before 22 April 2010.

Section 95 (4) of the Principal Act provides that a consent for the erection of a building, the subdivision of land or the carrying out of a work does not lapse if building, engineering or construction work is physically commenced on the land before the date the consent would otherwise lapse. The amendment in clause 3 (2) enables the regulations to set out circumstances in which work is or is not taken to be physically commenced. This amendment was originally included in an uncommenced amendment made by the *Environmental Planning and Assessment Amendment Act 2008* but is removed from that Act by clause 4.

Clause 4 removes from the *Environmental Planning and Assessment Amendment Act 2008* the uncommenced amendment to section 95 (4) of the Principal Act. That part of the uncommenced amendment that would also have provided that development consent would lapse if work was not substantially commenced within 2 years of the date the consent would otherwise have lapsed, is not being carried forward.



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Environmental Planning and Assessment Amendment (Development Consents) Bill 2010

No. , 2010

A Bill for

An Act to amend the *Environmental Planning and Assessment Act 1979* in relation to the lapsing of development consents.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Environmental Planning and Assessment Amendment (Development Consents) Act 2010</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6
3 Amendment of Environmental Planning and Assessment Act 1979 No 203	7 8
(1) Section 95 Lapsing of consent	9
Insert after section 95 (3):	10
(3A) A reduction that has been made under subsection (2) is to be disregarded if:	11 12
(a) the development consent operated before, and lapses after, the commencement of this subsection (or the development consent lapsed during the period commencing on 22 April 2010 and ending on the commencement of this subsection), or	13 14 15 16 17
(b) the development consent operated before, and lapses after, a date after 1 July 2011 prescribed by the regulations.	18 19 20
A reduction may not be made under subsection (2) during the period commencing on the commencement of this subsection and ending on 1 July 2011 or during any subsequent period prescribed by the regulations.	21 22 23 24
(2) Section 95 (7)	25
Insert after section 95 (6):	26
(7) The regulations may set out circumstances in which work is or is not taken to be physically commenced for the purposes of this section.	27 28 29

4	Amendment of Environmental Planning and Assessment Amendment Act 2008 No 36	1
		2
	Omit Schedule 2.1 [28] and [29] and clause 126 (2) in Schedule 2.2 [75].	3
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