

FIRST PRINT

LANDFILL DEPOTS (MORATORIUM) BILL 1994

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are:

- (a) to give legislative effect to the moratorium (announced by the Minister for the Environment on 16 September 1994) on the granting by the Environment Protection Authority (the "EPA") of authorities to operate putrescible waste landfill depots until guidelines relating to the management and location of solid waste landfill depots are established; and
- (b) to regulate the granting of authorities to operate new putrescible waste landfill depots after the period of the moratorium; and
- (c) to prohibit permanently the operation of a putrescible waste landfill depot on certain land at Erskine Park.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 sets out the objects of the proposed Act.

Clause 4 contains definitions of terms used in the proposed Act. A "putrescible waste landfill depot" is defined as any land used for the disposal of putrescible waste by burial. "Putrescible waste" is defined as any solid garbage or trade waste able to be decomposed by microbial action. An "authority" is defined as an approval, licence or certificate of registration granted by the EPA under the environment protection legislation.

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PART 2—MORATORIUM ON GRANTING AUTHORITIES FOR LANDFILL DEPOTS

Clause 5 provides that nothing in Part 2 applies to existing putrescible waste landfill depots. Existing putrescible waste landfill depots are those operating under an authority granted by the EPA in force immediately before the commencement of the proposed Act, or operating immediately before that commencement under the Environmental Planning and Assessment Act 1979 and any other relevant law.

Clause 6 prevents the EPA, during the period of the moratorium, granting any authority, or altering the conditions attached to any authority, that would have the effect of allowing the operation of a new putrescible waste landfill depot. The moratorium encompasses the authorisation of a depot itself and the authorisation of particular aspects of a depot's operations.

Clause 7 provides that the moratorium is taken to have started on 16 September 1994, the date of the Minister's announcement, and will continue until the date on which guidelines relating to solid waste landfill depots are published in the Gazette. These guidelines are to be formulated by:

- (a) the EPA, for the management of solid waste landfill depots; and
- (b) the Director of Planning, for the location of solid waste landfill depots.

Community consultation, as described in clause 8, is required before the guidelines can be published. The clause also provides for the amendment of the guidelines (as initially published) after the moratorium.

Clause 8 specifies the nature of community consultation required for the formulation of the solid waste landfill depot guidelines. The EPA and the Director of Planning are each required to advertise their intention to prepare the guidelines, and invite submissions within a specified period of time. The EPA and the Director of Planning are then required to take any submissions made into consideration in formulating the guidelines.

PART 3—APPLICATIONS FOR AUTHORITIES AFTER MORATORIUM

Clause 9 provides that nothing in Part 3 applies to existing putrescible waste landfill depots.

Clause 10 requires the EPA to refuse to consider an application to operate a new putrescible waste landfill depot that is made after the moratorium, unless:

- (a) the application is accompanied by a statement by a public authority (nominated by the EPA) that there is sufficient demand for the proposed depot; or
- (b) if there is no such statement, the EPA is itself satisfied that there is sufficient demand for the proposed depot.

As Part 3 does not apply to existing putrescible waste landfill depots, there is no requirement for them to provide a statement or satisfy the EPA that there is sufficient demand for the depot. Further, the clause provides that once sufficient demand has been established in relation to an application to operate a new putrescible waste landfill depot, there is no need to provide a further statement or otherwise satisfy the EPA upon the renewal, amendment or variation of the authority concerned.

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PART 4—ERSKINE PARK WASTE DEPOT

Clause 11 describes the land to which clause 12 applies.

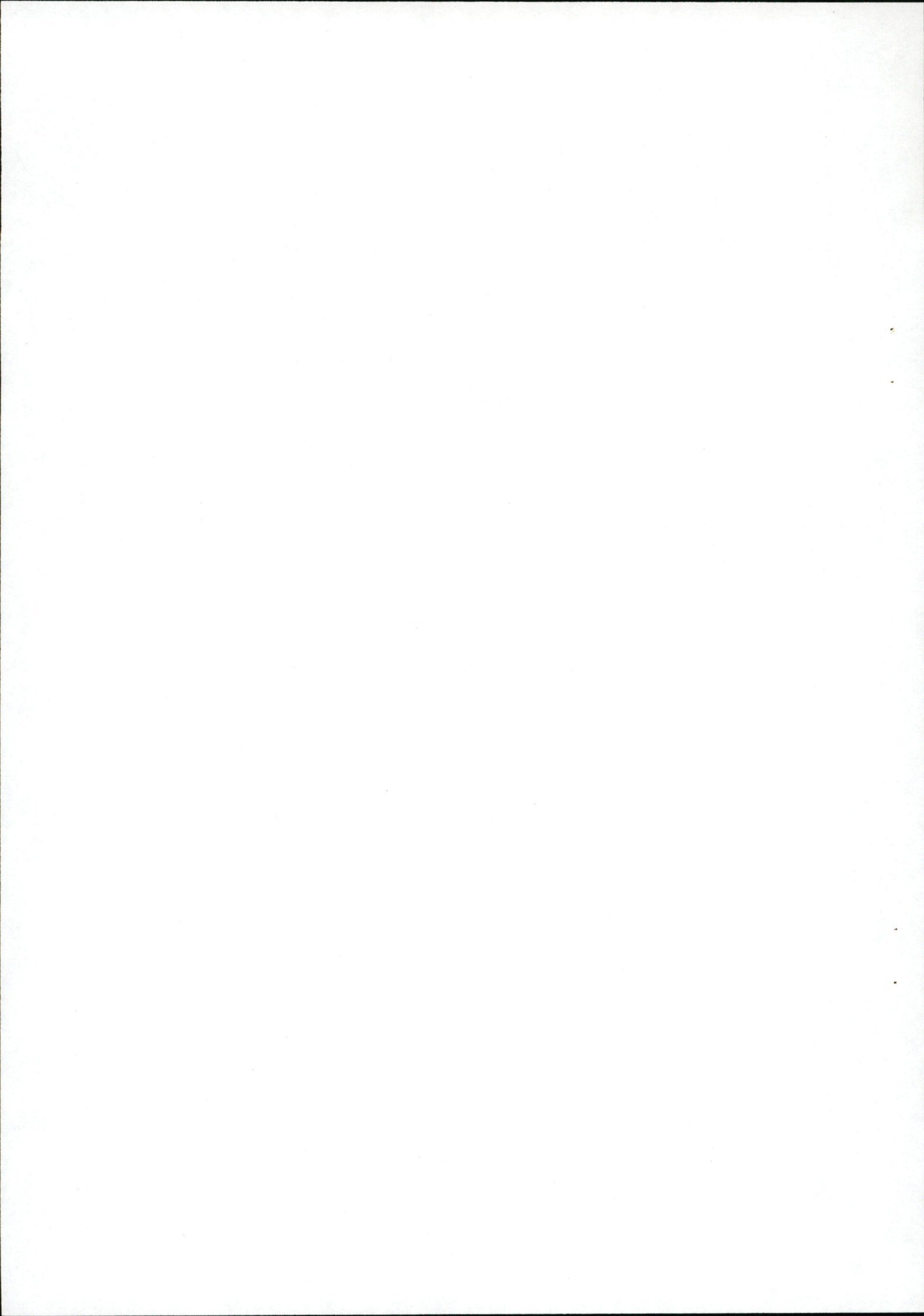
Clause 12 prohibits the EPA from ever granting any authority, or altering the conditions attached to any authority, that would have the effect of allowing the operation of a new putrescible waste landfill depot on the land described in clause 11.

PART 5—MISCELLANEOUS

Clause 13 provides that the proposed Act binds the Crown.

Clause 14 provides that no proceedings lie in respect of any refusal by the EPA to consider an application under clause 10, or in respect of any acts validly taken during the moratorium.

Clause 15 provides for the proposed Act to be reviewed by the Minister after 5 years.



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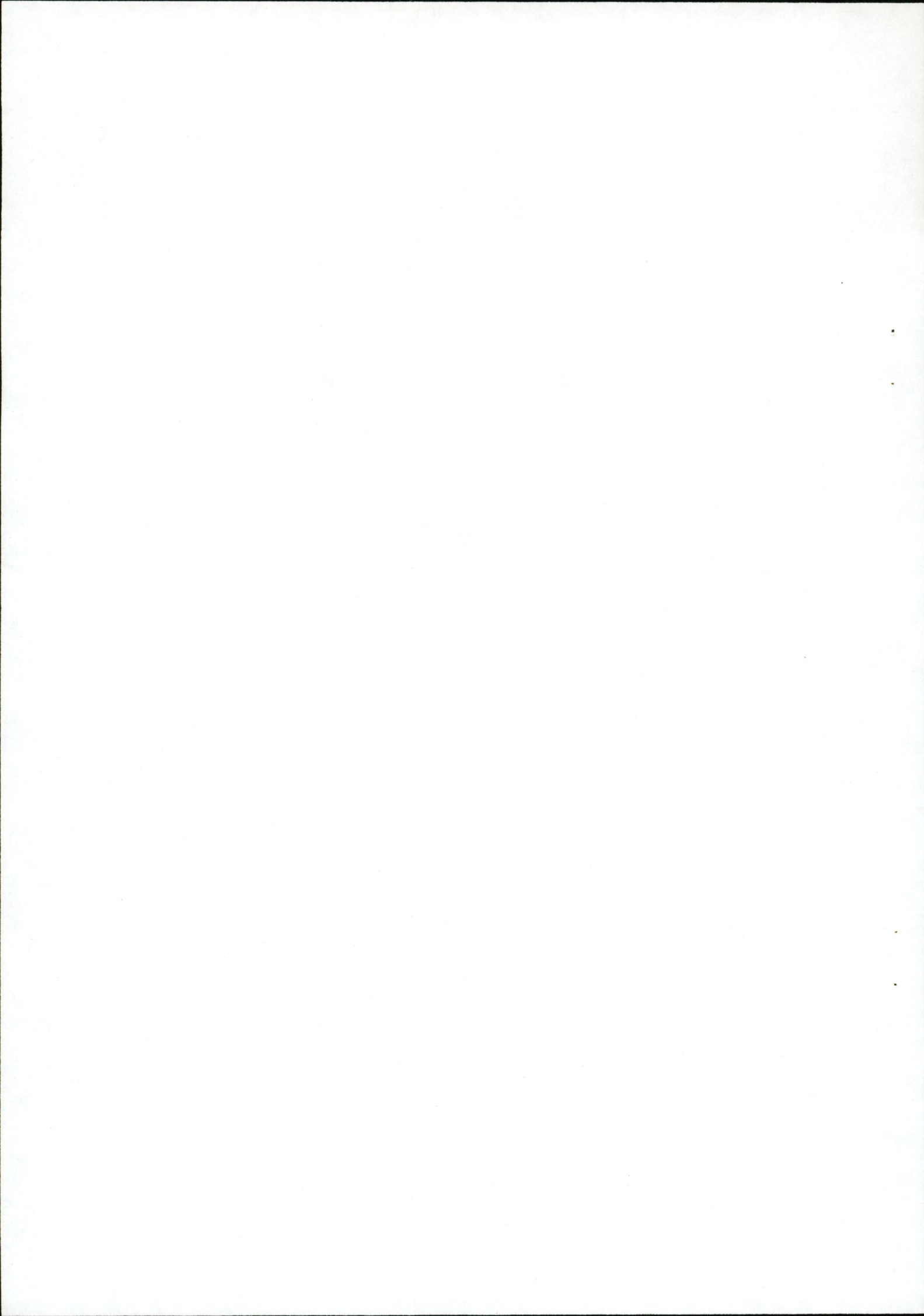
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LANDFILL DEPOTS (MORATORIUM) BILL 1994

NEW SOUTH WALES



No. , 1994

A BILL FOR

An Act to impose a moratorium on the granting of authorities to operate certain new landfill depots; to prohibit the operation of a putrescible waste landfill depot at Erskine Park; and for other purposes.

Landfill Depots (Moratorium) 1994

The Legislature of New South Wales enacts:

PART 1—PRELIMINARY

Short title

- 5 1. This Act may be cited as the Landfill Depots (Moratorium) Act 1994.

Commencement

2. This Act commences on the date of assent.

Objects of Act

3. The objects of this Act are:
- 10 (a) to give legislative effect to the moratorium (announced by the Minister for the Environment on 16 September 1994) on the granting by the EPA of authorities to operate putrescible waste landfill depots until guidelines relating to the management and location of solid waste landfill depots are established; and
- 15 (b) to regulate the granting of authorities to operate putrescible waste landfill depots after the period of the moratorium; and
- (c) to prohibit permanently the operation of a putrescible waste landfill depot on certain land at Erskine Park.

Definitions

- 20 4. In this Act:
- “**authority**” means an approval, licence or certificate of registration granted by the EPA under the environment protection legislation (within the meaning of the Protection of the Environment Administration Act 1991);
- 25 “**effluent**” has the same meaning as in the Waste Disposal Act 1970;
- “**EPA**” means the Environment Protection Authority constituted under the Protection of the Environment Administration Act 1991;
- “**existing putrescible waste landfill depot**” means:
- 30 (a) a putrescible waste landfill depot operating under an authority in force immediately before the commencement of this Act; or

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- (b) a putrescible waste landfill depot operating immediately before the commencement of this Act under the Environmental Planning and Assessment Act 1979 and any other relevant law;

- “garbage”** means all refuse other than trade waste and effluent; 5
- “public authority”** means a public authority constituted by or under an Act;
- “putrescible waste”** means any solid garbage or trade waste able to be decomposed by microbial action;
- “putrescible waste landfill depot”** means any land used for the disposal of putrescible waste by burial; 10
- “trade waste”** means any matter or thing that is of a kind that comprises refuse from any industrial, chemical, trade or business process or operation, including any building or demolition work.

**PART 2—MORATORIUM ON GRANTING AUTHORITIES
FOR LANDFILL DEPOTS** 15

Application of Part

5. Nothing in this Part applies to or in respect of an existing putrescible waste landfill depot.

Moratorium on granting authorities for new putrescible waste landfill depots 20

6. The EPA must not, until the guidelines referred to in section 7 have been published in the Gazette in accordance with this Part:

- (a) grant any authority that would have the effect of authorising the operation of a putrescible waste landfill depot; or 25
- (b) amend or vary any condition to which an authority is subject if that amendment or variation would have the effect of authorising the operation of a putrescible waste landfill depot.

Period of moratorium

7. (1) The moratorium imposed by section 6 is taken to have started on 16 September 1994 and remains in force until the publication in the Gazette (whether on the same or on different days) of both: 30

- (a) guidelines formulated by the EPA in accordance with this Part that relate to the management of solid waste landfill depots; and

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(b) guidelines formulated by the Director of Planning in accordance with this Part that relate to the location of solid waste landfill depots.

5 (2) The guidelines formulated by the EPA under this section must not be published in the Gazette until the EPA has completed the community consultation procedure described in section 8.

10 (3) The guidelines formulated by the Director of Planning under this section must not be published in the Gazette until the Director of Planning has completed the community consultation procedure described in section 8.

(4) Regard may be had to the guidelines when granting an authority.

(5) After the period of the moratorium, the guidelines may be amended or replaced from time to time.

15 (6) The guidelines as amended or replaced must be published in the Gazette. However, if the amendment or replacement would, in the opinion of the EPA or Director of Planning (as appropriate) substantially change the guidelines as initially published, they must not be published in the Gazette until completion of the same community consultation procedure as applied to the initial publication of the guidelines.

20 **Community consultation procedure**

8. (1) The EPA is to advertise its intention to initiate the preparation of the proposed solid waste landfill depot management guidelines by causing a notice to be published in at least 2 newspapers circulating generally in the State.

25 (2) The advertisement must invite written submissions to the EPA on any matter relating to the proposed guidelines and specify a closing date (being a date at least 21 days after the date on which the advertisement is last published) for the making of such submissions.

30 (3) The Director of Planning is to advertise the Director's intention to initiate the preparation of the proposed solid waste landfill depot location guidelines by causing a notice to be published in at least 2 newspapers circulating generally in the State.

35 (4) The advertisement must invite written submissions to the Director of Planning on any matter relating to the proposed guidelines and specify a closing date (being a date at least 21 days after the date on which the advertisement is last published) for the making of such submissions.

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(5) In formulating the guidelines, the EPA and the Director of Planning must have regard to any submissions made under this section.

PART 3—APPLICATIONS FOR AUTHORITIES AFTER MORATORIUM

Application of Part

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9. Nothing in this Part applies to or in respect of an existing putrescible waste landfill depot.

Applications for authorities for new putrescible waste landfill depots after moratorium

10. (1) This section applies if, after the period of the moratorium imposed by section 6, an application is made to the EPA:

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(a) for any authority that would have the effect of authorising the operation of a putrescible waste landfill depot; or

(b) to amend or vary any condition to which an authority is subject if that amendment or variation would have the effect of authorising the operation of a putrescible waste landfill depot.

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(2) The EPA must refuse to consider the application unless:

(a) it is accompanied by a statement from any public authority nominated by the EPA that there is sufficient demand for the proposed putrescible waste landfill depot; or

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(b) the EPA is itself satisfied that there is sufficient demand for the proposed putrescible waste landfill depot.

(3) Once sufficient demand for the proposed putrescible waste landfill depot is established, subsection (2) does not apply to or in respect of the renewal (or the amendment or variation) of the authority concerned.

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PART 4—ERSKINE PARK WASTE DEPOT

Land to which this Part applies

11. This Part applies to land consisting of Lot 91 in DP 838541 at Erskine Park in the Parish of Melville and County of Cumberland, at the corner of Erskine Park Road and Mamre Road in the City of Penrith.

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Prohibition of putrescible waste landfill depot at Erskine Park

12. The EPA must not:

- 5 (a) grant any authority that would have the effect of authorising the operation of a putrescible waste landfill depot on land to which this Part applies; or
- 10 (b) amend or vary any conditions to which any authority to operate an existing putrescible waste landfill depot is subject if that amendment or variation would have the effect of authorising the operation of a putrescible waste landfill depot on land to which this Part applies.

PART 5—MISCELLANEOUS**Act binds Crown**

15 13. This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

Appeals and other proceedings

14. No proceedings (whether by way of appeal or for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction, or for any other relief) lie in respect of:

- 20 (a) a refusal by the EPA to consider an application under section 10; or
- (b) anything done between 16 September 1994 and the commencement of this Act that would have been validly done if this Act had been in force at the time of doing that thing.

25 Review of Act

15. (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

30 (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.

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(3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

