

First print



New South Wales

Environmental Planning and Assessment Amendment (Public Authorities) Bill 1996

Explanatory note

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

Overview of Bill

The object of this Bill is to clarify the meaning of the expression **public authority** where used in the *Environmental Planning and Assessment Act 1979*. The amendment removes doubt that the heads of government departments, including the Director-General of the Department of Urban Affairs and Planning, and certain other chief executive officers, are public authorities for the purposes of that Act and are therefore able to act as consent authorities and concurrence authorities under the provisions of environmental planning instruments.

The Bill will also enable public authorities, other than local government councils, to delegate their functions under the *Environmental Planning and Assessment Act 1979*. Local government councils already have power under the *Local Government Act 1993* to delegate functions derived from any source but must do so only in accordance with the regime established under the *Local Government Act 1993*.

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 to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Environmental Planning and Assessment Act 1979* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [2] substitutes the definition of *public authority* in the *Environmental Planning and Assessment Act 1979* to give effect to the object of this Bill.

Schedule 1 [1] makes a consequential amendment.

Schedule 1 [3] provides for the exercise of functions on behalf of unincorporated public authorities.

Schedule 1 [4] enables a public authority (as redefined by the proposed Act but excluding a local government council) to delegate any functions conferred or imposed on the public authority by or under the *Environmental Planning and Assessment Act 1979*.

Schedule 1 [5] and [6] amend the schedule of savings, transitional and other provisions in the *Environmental Planning and Assessment Act 1979* to validate the role of department heads and other chief executive officers as concurrence authorities.

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New South Wales

Environmental Planning and Assessment Amendment (Public Authorities) Bill 1996

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New South Wales

Environmental Planning and Assessment Amendment (Public Authorities) Bill 1996

No , 1996

A Bill for

An Act to amend the *Environmental Planning and Assessment Act 1979* to make it clear that heads of government departments and certain other chief executive officers are public authorities for the purposes of that Act, to enable the delegation of functions by public authorities and to validate certain matters.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Environmental Planning and Assessment Amendment (Public Authorities) Act 1996*.

2 Commencement

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This Act commences on a day to be appointed by proclamation.

**3 Amendment of Environmental Planning and Assessment Act
1979 No 203**

The *Environmental Planning and Assessment Act 1979* is amended as set out in Schedule 1.

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Schedule 1 Amendments

(Section 3)

[1] Section 4 Definitions

Omit "or the Director" wherever occurring in paragraph (b) of the definition of *consent authority* in section 4 (1).

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[2] Section 4 (1)

Omit the definition of *public authority*. Insert instead:

public authority means:

- (a) a public or local authority constituted by or under an Act, or
- (b) a government Department, or
- (c) a statutory body representing the Crown, or
- (d) a chief executive officer within the meaning of the *Public Sector Management Act 1988* (including the Director), or
- (e) a statutory State owned corporation (and its subsidiaries) within the meaning of the *State Owned Corporations Act 1989*, or
- (f) a chief executive officer of a corporation or subsidiary referred to in paragraph (e), or
- (g) a person prescribed by the regulations for the purposes of this definition.

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[3] Section 4 (3A)

Insert after section 4 (3):

- (3A) Where functions are conferred or imposed by or under this Act on a public authority, being a government Department or some other unincorporated group of persons, those functions may be exercised by a person who is authorised to exercise those functions on behalf of the public authority.

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[4] Section 153A

Insert after section 153:

153A Delegation by public authorities

- (1) A public authority (other than a council) may delegate any function conferred or imposed on the public authority by or under this Act (other than this power of delegation) to:
 - (a) in the case of a public authority other than a chief executive officer—any officer or employee of the public authority, or
 - (b) in the case of a chief executive officer—any officer or employee of the public authority of which the chief executive officer is the chief executive officer.
- (2) An officer or employee of a public authority (other than a council) may delegate any function conferred or imposed on the officer or employee by or under this Act (other than this power of delegation) to any other officer or employee of the public authority. However, a function conferred or imposed on the firstmentioned officer or employee by delegation may not be subdelegated unless the subdelegation is authorised by the terms of the delegation.
- (3) A power conferred by this section is in addition to any other power of delegation of the public authority, officer or employee or any power of a person to exercise functions on behalf of a public authority.

[5] Schedule 6 Savings, transitional and other provisions

Insert at the end of clause 1 (1) of Part 1:

*Environmental Planning and Assessment Amendment
(Public Authorities) Act 1996*

[6] Schedule 6, Part 5

Insert at the end of Schedule 6:

**Part 5 Environmental Planning and Assessment
Amendment (Public Authorities) Act 1996**

17 Validation of role of certain concurrence authorities

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Anything done or omitted to be done before the commencement of the *Environmental Planning and Assessment Amendment (Public Authorities) Act 1996* that would have been valid if this Act, as amended by the *Environmental Planning and Assessment Amendment (Public Authorities) Act 1996*, had been in force when the thing was done or omitted to be done is validated.

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New South Wales

Environmental Planning and Assessment Amendment (Public Authorities) Act 1996 No 45

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New South Wales

Environmental Planning and Assessment Amendment (Public Authorities) Act 1996 No 45

Act No 45, 1996

An Act to amend the *Environmental Planning and Assessment Act 1979* to make it clear that heads of government departments and certain other chief executive officers are public authorities for the purposes of that Act, to enable the delegation of functions by public authorities and to validate certain matters. [Assented to 28 June 1996]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Environmental Planning and Assessment Amendment (Public Authorities) Act 1996*.

2 Commencement

This Act commences on a day to be appointed by proclamation.

3 Amendment of Environmental Planning and Assessment Act 1979 No 203

The *Environmental Planning and Assessment Act 1979* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 4 Definitions

Omit "or the Director" wherever occurring in paragraph (b) of the definition of *consent authority* in section 4 (1).

[2] Section 4 (1)

Omit the definition of *public authority*. Insert instead:

public authority means:

- (a) a public or local authority constituted by or under an Act, or
- (b) a government Department, or
- (c) a statutory body representing the Crown, or
- (d) a chief executive officer within the meaning of the *Public Sector Management Act 1988* (including the Director), or
- (e) a statutory State owned corporation (and its subsidiaries) within the meaning of the *State Owned Corporations Act 1989*, or
- (f) a chief executive officer of a corporation or subsidiary referred to in paragraph (e), or
- (g) a person prescribed by the regulations for the purposes of this definition.

[3] Section 4 (3A)

Insert after section 4 (3):

- (3A) Where functions are conferred or imposed by or under this Act on a public authority, being a government Department or some other unincorporated group of persons, those functions may be exercised by a person who is authorised to exercise those functions on behalf of the public authority.

[4] Section 153A

Insert after section 153:

153A Delegation by public authorities

- (1) A public authority (other than a council) may delegate any function conferred or imposed on the public authority by or under this Act (other than this power of delegation) to:
 - (a) in the case of a public authority other than a chief executive officer—any officer or employee of the public authority, or
 - (b) in the case of a chief executive officer—any officer or employee of the public authority of which the chief executive officer is the chief executive officer.
- (2) An officer or employee of a public authority (other than a council) may delegate any function conferred or imposed on the officer or employee by or under this Act (other than this power of delegation) to any other officer or employee of the public authority. However, a function conferred or imposed on the firstmentioned officer or employee by delegation may not be subdelegated unless the subdelegation is authorised by the terms of the delegation.
- (3) A power conferred by this section is in addition to any other power of delegation of the public authority, officer or employee or any power of a person to exercise functions on behalf of a public authority.

[5] Schedule 6 Savings, transitional and other provisions

Insert at the end of clause 1 (1) of Part 1:

*Environmental Planning and Assessment Amendment
(Public Authorities) Act 1996*

[6] Schedule 6, Part 5

Insert at the end of Schedule 6:

**Part 5 Environmental Planning and Assessment
Amendment (Public Authorities) Act 1996**

17 Validation of role of certain concurrence authorities

Anything done or omitted to be done before the commencement of the *Environmental Planning and Assessment Amendment (Public Authorities) Act 1996* that would have been valid if this Act, as amended by the *Environmental Planning and Assessment Amendment (Public Authorities) Act 1996*, had been in force when the thing was done or omitted to be done is validated.

[Minister's second reading speech made in—

Legislative Assembly on 19 June 1996

Legislative Council on 26 June 1996]

