

First print



New South Wales

# **Pollution Control Amendment 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 amend the *Pollution Control Act 1970* to enable the Environment Protection Authority, when making decisions concerning a licence under a pollution control Act, including decisions concerning the imposition of conditions, to regulate the whole of the pollution caused by the activity concerned instead of being limited only to the kind of pollution dealt with in the particular pollution control Act. The pollution control Acts concerned are the *Pollution Control Act 1970*, the *Clean Air Act 1961*, the *Clean Waters Act 1970* and the *Noise Control Act 1975*.

The amendments overcome the decision of the Land and Environment Court in *Environment Protection Authority v Cleary Bros. (Bombo) Pty Limited*. (50046 of 1995) given on 28 August 1996.

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## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

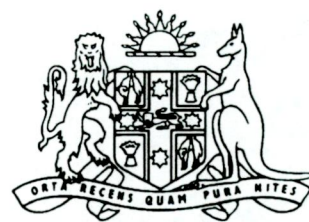
**Clause 2** provides for the commencement of the proposed Act on the date of assent.

**Clause 3** is a formal provision giving effect to the amendments to the *Pollution Control Act 1970* set out in Schedule 1.

**Clause 4** validates licences granted, and conditions of licences determined, before the date of assent to the proposed Act, other than the licence that was the subject of the Land and Environment Court's decision.

**Schedule 1** contains the amendments described above.

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# Pollution Control Amendment Bill 1996

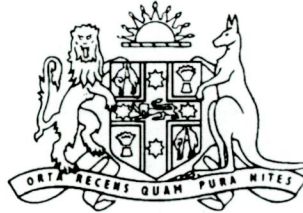
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New South Wales

# Pollution Control Amendment Bill 1996

No. , 1996

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## **A Bill for**

An Act to amend the *Pollution Control Act 1970* with respect to the determination of licence applications and the conditions of licences; and to validate certain licences.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Pollution Control Amendment Act 1996*.

**2 Commencement**

This Act commences on the date of assent. 5

**3 Amendment of Pollution Control Act 1970 No 95**

The *Pollution Control Act 1970* is amended as set out in Schedule 1.

**4 Validation of licences and conditions**

- (1) A licence granted, renewed or transferred (or purporting to have been granted, renewed or transferred) under the *Pollution Control Act 1970* before the date of assent to this Act, and a condition of a licence imposed, varied or attached (or purporting to have been imposed, varied or attached) before that date, that would be valid if the *Pollution Control Act 1970*, as amended by this Act, had been in force when the licence was granted, renewed or transferred (or purported to have been granted, renewed or transferred), or the condition was imposed, varied or attached (or purported to have been imposed, varied or attached), is validated by this section and is taken to have been valid at all times. 10 15 20
- (2) This section does not apply to licence No 000299 granted to Cleary Bros. (Bombo) Pty Limited in so far as it was expressed to be in force from 30 September 1993 until 30 September 1995.

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## Schedule 1 Amendments

(Section 3)

### [1] Section 17BA

Insert after section 17B:

- 17BA Determination of licence applications—cross-media considerations** 5
- (1) The purpose of this section is to ensure that:
- (a) the determination, under section 17D (1), of an application for a licence may be made in accordance with this section (and the other provisions of this Division) whether or not the application is made for a licence of a particular kind referred to in section 17A, and 10
  - (b) any conditions, under section 17D, of a licence may be imposed, varied or attached in accordance with this section (and the other provisions of this Division). 15
- (2) In exercising its functions under section 17D, the Authority must take into consideration:
- (a) the whole of the pollution of all kinds caused or likely to be caused by the activity conducted or to be conducted by the applicant or licensee, and 20
  - (b) the impact of that pollution on the environment, and
  - (c) the practical measures that may be taken: 25
    - (i) to prevent, control, abate or mitigate that pollution, and
    - (ii) to protect the environment from defacement, defilement or deterioration as a result of that pollution. 30
- (3) A condition of a licence may be imposed under section 17D (1), or varied or attached under section 17D (3), in relation to any matter referred to in subsection (2).

- (4) The Authority's consideration of an application, and a condition of a licence, is not limited because:
- (a) the application is made in respect of a licence of a particular kind referred to in section 17A, or
  - (b) the licence is of a particular kind referred to in section 17A, or 5
  - (c) the pollution includes pollution of a different kind from that in respect of which the application is made or the licence is granted, or
  - (d) the pollution includes pollution of a kind in respect of which a licence is not required. 10
- (5) In this section, *application* means an application under section 17A or an application for the renewal or transfer of a licence.

**[2] Section 17D Licences** 15

Omit subsection (4).





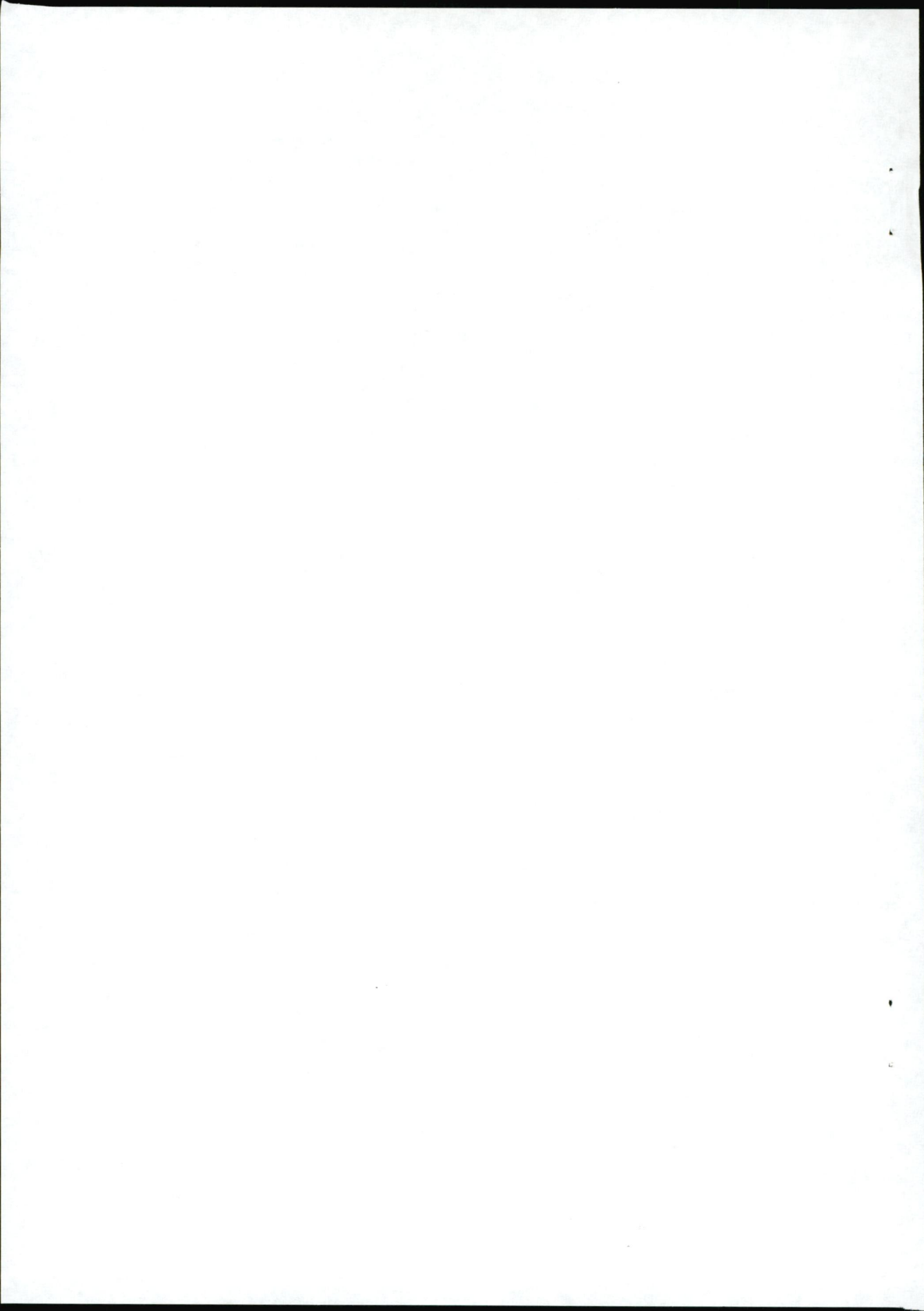
New South Wales

# Pollution Control Amendment Act 1996 No 132

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New South Wales

# **Pollution Control Amendment Act 1996 No 132**

Act No 132, 1996

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An Act to amend the *Pollution Control Act 1970* with respect to the determination of licence applications and the conditions of licences; and to validate certain licences. [Assented to 12 December 1996]

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**The Legislature of New South Wales enacts:****1 Name of Act**

This Act is the *Pollution Control Amendment Act 1996*.

**2 Commencement**

This Act commences on the date of assent.

**3 Amendment of Pollution Control Act 1970 No 95**

The *Pollution Control Act 1970* is amended as set out in Schedule 1.

**4 Validation of licences and conditions**

- (1) A licence granted, renewed or transferred (or purporting to have been granted, renewed or transferred) under the *Pollution Control Act 1970* before the date of assent to this Act, and a condition of a licence imposed, varied or attached (or purporting to have been imposed, varied or attached) before that date, that would be valid if the *Pollution Control Act 1970*, as amended by this Act, had been in force when the licence was granted, renewed or transferred (or purported to have been granted, renewed or transferred), or the condition was imposed, varied or attached (or purported to have been imposed, varied or attached), is validated by this section and is taken to have been valid at all times.
- (2) This section does not apply to licence No 000299 granted to Cleary Bros. (Bombo) Pty Limited in so far as it was expressed to be in force from 30 September 1993 until 30 September 1995.

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## Schedule 1 Amendments

(Section 3)

### [1] Section 17BA

Insert after section 17B:

#### **17BA Determination of licence applications—cross-media considerations**

- (1) The purpose of this section is to ensure that:
  - (a) the determination, under section 17D (1), of an application for a licence may be made in accordance with this section (and the other provisions of this Division) whether or not the application is made for a licence of a particular kind referred to in section 17A, and
  - (b) any conditions, under section 17D, of a licence may be imposed, varied or attached in accordance with this section (and the other provisions of this Division).
- (2) In exercising its functions under section 17D, the Authority must take into consideration:
  - (a) the whole of the pollution of all kinds caused or likely to be caused by the activity conducted or to be conducted by the applicant or licensee, and
  - (b) the impact of that pollution on the environment, and
  - (c) the practical measures that may be taken:
    - (i) to prevent, control, abate or mitigate that pollution, and
    - (ii) to protect the environment from defacement, defilement or deterioration as a result of that pollution.
- (3) A condition of a licence may be imposed under section 17D (1), or varied or attached under section 17D (3), in relation to any matter referred to in subsection (2).

- (4) The Authority's consideration of an application, and a condition of a licence, is not limited because:
- (a) the application is made in respect of a licence of a particular kind referred to in section 17A, or
  - (b) the licence is of a particular kind referred to in section 17A, or
  - (c) the pollution includes pollution of a different kind from that in respect of which the application is made or the licence is granted, or
  - (d) the pollution includes pollution of a kind in respect of which a licence is not required.
- (5) In this section, *application* means an application under section 17A or an application for the renewal or transfer of a licence.

**[2] Section 17D Licences**

Omit subsection (4).

[Minister's second reading speech made in—  
Legislative Assembly on 13 November 1996  
Legislative Council on 3 December 1996]

BY AUTHORITY