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Planning and Environment Amendment Bill 2021

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Third Draft
4/10/2021

**Planning and Environment Amendment
Bill 2021**

A Bill for an Act to ensure the environment is prioritised in planning decisions.

The Parliament of Victoria enacts:

1 Purpose

The purpose of this Act is to amend the **Planning and Environment Act 1987** to ensure the environment is prioritised in planning decisions.

2 Commencement

This Act comes into operation on the day after the day on which it receives the Royal Assent.

3 Principal Act

In this Act, the **Planning and Environment Act 1987** is called the Principal Act.

4 Purpose—Principal Act

In section 1 of the Principal Act, for "use, development and protection of land" **substitute** "use and development of land and the protection of land, the environment and native species".

5 Definitions

In section 3(1) of the Principal Act **insert** the following definitions—

"*environmental impact statement* means a statement that contains the following—

- (a) a description of the proposed amendment, use or development;
- (b) a description of the existing environment that may be affected;
- (c) an outline of the impact on native species as well as potential degradation to the soil, water or air;
- (d) the identification of threatened species, including native grasslands, and measures proposed for their protection;
- (e) predictions of significant environmental effects of the proposed amendment, use or development and relevant alternatives based on scientific advice;
- (f) either—
 - (i) recommended measures to minimise, monitor and manage negative environmental impacts arising from the proposed amendment, use or development; or

- (ii) a statement that there are no negative environmental impacts from the proposed amendment, use or development;

native species means flora or fauna indigenous to a given region or ecosystem that is the result of local and natural evolution;"

6 Objectives

In section 4(2) of the Principal Act—

- (a) for paragraph (c) **substitute**—

"(c) to enable land use and development planning and policy—

- (i) to focus on the protection of the environment, particularly native species; and
- (ii) to be easily integrated with environmental, social, economic, conservation and resource management policies at State, regional and municipal levels;"

- (b) in paragraph (d), for "considered" **substitute** "minimised".

7 What are the duties and powers of planning authorities?

In section 12(2)(b) of the Principal Act, for "significant effects" **substitute** "effects, including minor and incremental effect,".

8 What are the duties of a responsible authority?

In section 14 of the Principal Act—

- (a) after paragraph (aa) **insert**—

"(aab) to protect the environment and conserve native species; and";

(b) in paragraph (b), after "planning scheme" **insert** "and to give consideration to environmental protection by responding in writing to any issue identified in an environmental impact statement that accompanies a permit application".

9 Copies of amendment to be given to certain persons

In section 17(1) and (3) of the Principal Act, after "explanatory report" **insert** ", environmental impact statement".

10 Availability of amendment

After section 18(2)(b) of the Principal Act **insert**—

"(ba) a copy of the environmental impact statement in respect of the proposed amendment; and".

11 Report by panel

After section 25(4) of the Principal Act **insert**—

"(4A) A panel must not make a recommendation that an amendment be adopted if the environmental impact statement has not been considered and responded to in the report.".

12 Approval of amendment by Minister

After section 35(1)(a)(i) of the Principal Act **insert**—

"(ia) subject to the consideration of and response to any measures recommended in the environmental impact statement by the Minister; and".

13 Applications for permits

After section 47(1)(c) of the Principal Act
insert—

"(ca) be accompanied by an environmental impact statement; and".

14 What matters must a responsible authority consider?

In section 60 of the Principal Act—

(a) after subsection (1)(e) **insert**—

"(ea) the environmental impact statement and the extent to which the proposed use or development has minimised any negative environmental impacts or enhanced the location; and";

(b) in subsection (1A)(g), after "policy statement," **insert** "especially environmental protection policy,".

15 What conditions can be put on permits?

In section 62(1) of the Principal Act—

(a) after paragraph (aa) **insert**—

"(aab) include conditions to minimise any negative impacts identified in the environmental impact statement that have not been addressed in the permit application; and";

(b) in paragraph (b), for "or (aa)" **substitute** ", (aa) or (aab)".

16 Matters for Tribunal to take into account

After section 84B(2)(da) of the Principal Act
insert—

"(db) must take account of the environmental impact statement and the responsible authority's response to it;".

17 What are the grounds for cancellation or amendment of permits?

After section 87(1)(c) of the Principal Act
insert—

"(ca) any substantial failure to consider and respond to the environmental impact statement; or".

18 Report by panel on proposed permit

In section 96E(1)(b) of the Principal Act, after "be subject" **insert** ", including any matters that the environmental impact statement recommends to be addressed".

19 Repeal of this Act

This Act is **repealed** on the first anniversary of its commencement.

Note

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.