



Tabled, by leave, MS Shape  
Staffell  
for  
Clerk of the Parliaments  
26 / 3 / 25

## ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT BILL 2025

### STATEMENT OF PUBLIC INTEREST

#### Need: Why is the policy needed based on factual evidence and stakeholder input?

The *Environmental Planning and Assessment Amendment Bill 2025* (the **Bill**) will amend the *Environmental Planning and Assessment Act 1979* (EP&A Act) to make various miscellaneous changes in response to a series of decisions from the NSW Court of Appeal (**Court of Appeal**) and the NSW Land and Environment Court (LEC). The Bill will also make various miscellaneous changes to the minimum exhibition periods, affordable housing contributions and strategic planning frameworks in the EP&A Act.

The Court of Appeal's decision in *Ku-Ring-Gai Council v Buyozo Pty Ltd* [2021] NSWCA 177 (Buyozo) and *Filetron Pty Ltd v Innovate Partners Pty Ltd atf Banton Family Trust 2 and Goulburn Mulwaree Council* [2024] NSWCA 41 (Filetron) has altered long-held planning practices and created uncertainty in the assessment and determination of development applications. The LEC's decision in *Castle Hill Panorama Pty Ltd v The Hills Shire Council* [2023] NSWLEC 24 (Castle Hill) established a positive planning outcome, but the pathway used to reach that conclusion is not without doubt, and should be reinforced. An amendment to the EP&A Act is the only way to make the changes to address the Court of Appeal and LEC's findings and deliver better planning outcomes.

The Housing Delivery Authority (HDA) was established by the Government in December 2024 to support the delivery of major housing projects. The proposed changes will support the HDA to carry out their important advisory functions by removing potential duplication with the Independent Planning Commission in the declaration of projects as State significant development. The Bill also exempts the HDA from more formal meeting requirements, typically used for planning functions such as determining development applications or hearing evidence, to ensure their work can be conducted as quickly and as efficiently as possible. The HDA will continue to publish key briefing documents and records in accordance with their Terms of Reference and Operational procedures to notify stakeholders of decisions made.

The Bill seeks to reduce the mandatory minimum exhibition period from 28 days to 14 days for certain residential State significant development applications. This change will prioritise the assessment of housing projects and make sure that stakeholder advice and community input is provided in a timely manner.

The delivery of affordable housing is one of the objects of the EP&A Act. Section 7.32 EP&A Act permits a contribution for affordable housing to be sought if a State environmental planning policy (SEPP) identifies there is a need for affordable housing in an area of the State and the condition is authorised to be imposed by a local environmental plan (LEP) in accordance with an affordable housing contributions plan set out in or adopted by the LEP. The Bill will streamline the development application process for councils when applying a condition of consent requiring an authorised affordable housing contribution and support the timely assessment of development applications requiring affordable housing contributions.

The proposed changes tidy up the EP&A Act as a result of the abolition of the Greater Cities Commission in 2024 and ensure consistent and flexible strategic planning across the State.

**Objectives: What is the policy's objective couched in terms of the public interest?**

The object of the Bill is to amend the EP&A Act to create certainty in the planning system and accelerate housing delivery, at a time when the State requires efficient, effective and streamlined planning processes. The Bill intends to reinstate pragmatic and functional approaches to development assessment and determination.

**Options: What alternative policies and mechanisms were considered in advance of the Bill?**

An amendment to the EP&A Act is the only suitable option available to address the issues arising from the decisions of the Court of Appeal and the LEC. Further, the proposed amendments to support housing delivery, affordable housing contributions and streamline planning process can only be achieved through amendments to the EP&A Act.

Non-regulatory options could not provide the legal certainty required, nor address the issues raised by the Court of Appeal or the LEC or the policy intent underlying the changes. Subordinate instruments cannot not deliver the same effects as an amendment to the EP&A Act.

**Analysis: What were the pros/cons and benefits/costs of each option considered?**

A risk assessment and options analysis was undertaken as part of the preparation of the draft Bill and associated Cabinet briefing material for the key policy reforms. Non-legislative responses were considered, however making changes to the EP&A Act is the clearest and most effective means of achieving the intent of each of the proposed reforms. Each policy area addressed by this Bill has been considered against the specific risks and options relevant to it.

**Pathway: What are the timetable and steps for the policy's rollout and who will administer it?**

The amendments proposed in the Bill, apart from those relating to the strategic planning framework, will commence on the date of assent to the Bill. All amendments to the strategic planning framework will commence on a day or days to be appointed by proclamation. Supporting regulations, if any, will be prepared and implemented where appropriate, following the commencement of the provisions of the Bill. The Department of Planning, Housing and Infrastructure will administer the implementation of the policy once all changes have commenced.

**Consultation: Were the views of affected stakeholders sought and considered in making the policy?**

Relevant NSW Government agencies were contacted during the preparation of the Bill and informed about the proposed reforms. Those agencies were given an opportunity to provide feedback on the proposed reforms.

Given the urgency of the proposed reforms, the views of other affected stakeholders were not sought or considered in the preparation of the Bill. Affected industry and community stakeholders will be informed about the proposed changes, once implemented.

The changes being proposed as part of the Bill are consistent with community expectations for the NSW Government to act quickly to improve the NSW planning system to facilitate the delivery of housing supply across the State.