

Approvals and Related Reforms (No. 1) (Environment) Bill 2009

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Western Australia

LEGISLATIVE COUNCIL

(As amended in Committee)

**Approvals and Related Reforms (No. 1)
(Environment) Bill 2009**

A Bill for

An Act to amend the *Environmental Protection Act 1986* and for related purposes.

The Parliament of Western Australia enacts as follows:

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Part 1 — Preliminary matters

1. Short title

This is the *Approvals and Related Reforms (No. 1) (Environment) Act 2009*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 other than section 3 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

3. Act amended

This Act amends the *Environmental Protection Act 1986*.

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Part 2 — Appeals

Division 1 — Appeals in respect of proposals

4. Section 45A amended

(1) In section 45A(2) delete “when a section 39B declaration is final,” and insert:

when the Minister is notified under section 39B(5)(b) of a section 39B declaration,

(2) Delete section 45A(4).

5. Section 48F amended

In section 48F(3)(a) delete “section 100(3a)(d); or” and insert:

section 100(3a)(c); or

6. Section 100 amended

(1) In section 100(1):

(a) in paragraph (a) delete “assessed;” and insert:

assessed, other than a decision that includes a recommendation that the proposal be dealt with under Part V Division 2; or

(b) delete paragraphs (b) and (c);

(c) in paragraph (e) delete “scheme; or” and insert:

scheme,

Approvals and Related Reforms (No. 1) (Environment) Bill 2009

Part 2 Appeals

Division 1 Appeals in respect of proposals

s. 7

- 1 (d) delete paragraph (f);
2 (e) after paragraph (d) insert:
3
4 or
5
6 (2) Delete section 100(2).
7 (3) In section 100(3a):
8 (a) in paragraph (a) delete “subsection (1)(a), (b), (c) or (f),”
9 and insert:
10
11 subsection (1)(a),
12
13 (b) delete paragraph (d) and “or” after it;
14 (c) after each of paragraphs (a), (b) and (c) insert:
15
16 or
17
18 **Note:** The heading to amended section 100 is to read:
19 **Lodging of appeals in respect of proposals**
20 **7. Section 101 amended**
21 (1) In section 101(1):
22 (a) delete “section 100(1), (2)” and insert:
23
24 section 100(1)
25
26 (b) in paragraph (b) delete “section 100(1)(a) or (b),” and
27 insert:
28
29 section 100(1)(a),
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- 1 (c) in paragraph (c) delete “section 100(1)(a), (b) or (f),”
2 and insert:
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4 section 100(1)(a),
5
6 (d) delete paragraph (da);
7 (e) delete paragraph (dc);
8 (f) after each of paragraphs (a), (b), (c), (d) and (db) insert:
9
10 or
11
12 (2) In section 101(2) delete “(c), (d) or (dc)” and insert:
13
14 (c) or (d)
15
16 (3) Delete section 101(2a), (2b) and (2c).
17 (4) In section 101(3):
18 (a) delete paragraph (a) and insert:
19
20 (a) referred to in section 100(1)(a) does not affect
21 the relevant decision; or
22
23 (b) delete “subsection (1), (2c) or (2d).” and insert:
24
25 subsection (1) or (2d).
26
27 (c) after each of paragraphs (b) and (c) insert:
28
29 or
30

1 **8. Section 106 amended**

2 In section 106(3) delete “section 101(2a) or (2d).” and insert:

3

4 section 101(2d).

5

6 **9. Section 107 amended**

7 In section 107(3) delete “section 101(2a) or (2d).” and insert:

8

9 section 101(2d).

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11 **Division 2 — Appeals in respect of clearing permits**

12 **10. Section 101A amended**

13 (1) In section 101A(1) delete “28 days” and insert:

14

15 21 days

16

17 (2) In section 101A(2) delete “28 days” and insert:

18

19 21 days

20

21 (3) In section 101A(3):

22 (a) in paragraph (a) delete “refusal or”;

23 (b) in paragraph (b) delete “amendment, revocation or
24 suspension” and insert:

25

26 amendment

27

- 1 (c) delete “refusal, specification, revocation, suspension or
2 amendment” and insert:
3
4 specification or amendment
5

6 **Division 3 — Appeals in respect of works approvals**
7 **and licences**

8 **11. Section 102 amended**

9 In section 102(3):

- 10 (a) in paragraph (a) delete “refusal or”;
11 (b) in paragraph (b) delete “amendment, revocation or
12 suspension” and insert:
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14 amendment
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16 (c) delete “refusal, specification, revocation, suspension or
17 amendment” and insert:
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19 specification or amendment
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Division 4 — Transitional provisions

12. Part IX Division 1 heading inserted

At the beginning of Part IX insert:

Division 1 — Transitional provisions for *Environmental Protection Act 1986*

13. Part IX Division 2 inserted

After Part IX Division 1 insert:

Division 2 — Transitional provisions for *Approvals and Related Reforms (No. 1) (Environment) Act 2009* Part 2

129. Term used: amending Act

In this Division —

amending Act means the *Approvals and Related Reforms (No. 1) (Environment) Act 2009*.

130. Appeals in respect of proposals

(1) In this section —

former EP Act means the *Environmental Protection Act 1986* as in force immediately before the amending Act Part 2 Division 1 comes into operation.

(2) The former EP Act continues to apply in respect of a decision of the Authority made before the day on which the amending Act Part 2 Division 1 comes into operation.

1 **131. Appeals in respect of clearing permits**

- 2 (1) In this section —
- 3 *former EP Act* means the *Environmental Protection*
4 *Act 1986* as in force immediately before the amending
5 Act Part 2 Division 2 comes into operation.
- 6 (2) The former EP Act continues to apply in respect of a
7 decision of the CEO made before the day on which the
8 amending Act Part 2 Division 2 comes into operation.

9 **132. Appeals in respect of works approvals and licences**

- 10 (1) In this section —
- 11 *former EP Act* means the *Environmental Protection*
12 *Act 1986* as in force immediately before the amending
13 Act Part 2 Division 3 comes into operation.
- 14 (2) The former EP Act continues to apply in respect of a
15 decision of the CEO made before the day on which the
16 amending Act Part 2 Division 3 comes into operation.
- 17

s. 14

1 **Part 3 — Decisions about minor or preliminary work**
2 **that has Authority's consent**

3 **14. Section 41 amended**

4 After section 41(3) insert:

- 5
6 (4) Subsections (2) and (3) do not apply to a decision in
7 relation to a proposal if the effect of the decision would
8 be to cause or allow the doing of minor or preliminary
9 work to which the Authority has consented under
10 section 41A(3).
11

12 **15. Section 51F amended**

13 After section 51F(1) insert:

- 14
15 (2A) Subsection (1) does not apply if the application is for a
16 clearing permit for the purpose of doing minor or
17 preliminary work to which the Authority has consented
18 under section 41A(3).
19

20 **16. Section 54 amended**

21 After section 54(4) insert:

- 22
23 (5A) Subsection (4) does not apply if the application is for a
24 works approval for the purpose of doing minor or
25 preliminary work to which the Authority has consented
26 under section 41A(3).
27

1 **17. Section 57 amended**

2 After section 57(4) insert:

3

4 (4AA) Subsection (4) does not apply if the application is for a
5 licence for the purpose of doing minor or preliminary
6 work to which the Authority has consented under
7 section 41A(3).

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9 **18. Part IX Division 3 inserted**

10 At the end of Part IX insert:

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12 **Division 3 — Transitional provisions for *Approvals and***
13 ***Related Reforms (No. 1) (Environment) Act 2009 Part 3***

14 **133. Minor or preliminary work that has Authority's**
15 **consent**

16 (1) In this section —

17 ***amended EP Act*** means the *Environmental Protection*
18 *Act 1986* as amended by the *Approvals and Related*
19 *Reforms (No. 1) (Environment) Act 2009 Part 3*.

20 (2) The amended EP Act applies —

21 (a) in respect of a proposal irrespective of when the
22 proposal was or is referred to the Authority;
23 and

24 (b) in respect of an application irrespective of when
25 the application was or is made to the CEO.

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