



31<sup>st</sup> March 2017

**Attention:**

Planning Minister, Honourable Rob Stokes, [pittwater@parliament.nsw.gov.au](mailto:pittwater@parliament.nsw.gov.au)  
Environment Minister, Honourable Mark Speakman [cronulla@parliament.nsw.gov.au](mailto:cronulla@parliament.nsw.gov.au)  
Member for Oxley, Honourable Melinda Pavey [oxley@parliament.nsw.gov.au](mailto:oxley@parliament.nsw.gov.au)  
With hard-copy to:

**NSW Department of Planning and Environment**  
GPO Box 39  
**Sydney NSW 2001**

**Submission on the Draft Environmental Planning and Assessment Amendment Bill 2017**

Dear Sir/Madam,

Thank you for the opportunity to provide a considered submission on the Draft Environmental Planning and Assessment Amendment Bill 2017.

To some extent the existing EP&A Act does need review to reduce the complexities and overlays of prior amendments and additions: The draft Bill to amend the Act, as proposed, might partly achieve this, but with causation of tremendous 'Centralisation' of power and decision making to be vested in the NSW Minister and Secretary for Planning. This power largely being taken from the rights of the people/public from being part of the process and to express and have their concerns heard and considered.

Save Our Macleay River Inc. (SOMR) strongly oppose the adoption of the Amendments to the Bill as drafted, due to the following concerns:

1. The Planning Assessment Commission (PAC) is to become an Independent Planning Commission (IPC), with some 'inquisitorial' power and ability to hold public hearings but a reduced role of providing advice to the Minister/Secretary for Planning. PAC currently has some influence over determinations and a Minister/Secretary would have to be brave to make a decision counter to their advice. – Perhaps not so in the proposed changes.
2. The proposed IPC 'hearings' will reduce the legal rigor and rights of a Judicial Merit Appeal though the Land & Environment Court. This legal rigor should be retained as the legislation is already in favour of 'Development' with few checks and balances. For one example; as existent, Proponents have 6 months to appeal and Objectors 28 days.
3. Part 3A, covering State Significant DAs is proposed to be repealed. This seems to allow ALL Part 3 DAs to be determined by the Minister/Secretary for Planning, or their delegate (appointed Panels for example) further excluding the electorate/people from input to the process.
4. The draft Bill provides the ability for the Minister and Secretary for Planning to over-ride a Government agency, such as OEH and EPA when determining General Terms of Approval for an Integrated development.

5. The opportunity for councils to establish Local Planning Panels (LPPs), divests elected Councillors of representing their community for Part 4 DAs. Councillors fearing the legislative quagmire might opt for this.
6. The draft includes powers to Alter Conditions of Consent by The Minister and Secretary of Planning subject to them being 'substantially consistent with the existing'. 'Substantially', is a highly subjective term and unable to be readily defined or challenged.
7. The new Internal Review provisions made for Proponents are 'internal', not open to the public for involvement or transparency. This would provide the perfect environment for the Proponent to quietly 'Reach a Deal' with the Assessing & Determining Authority, mostly Planning Minister and Secretary. - In the interests of public accountability, this is not acceptable.  
The draft Bill does not clearly explain at what stage the Internal Review would occur, but presumably between closing date of any public Submission or input and the date of Determination, while Conditions and General Terms of Approval are being developed. This at least needs clarification.
8. The draft Bill's assessment and determination proposals erode the requirement for Environmental Impact Statements to be thorough, reviewed and challenged by the Public including groups like SOMR through the courts.

In summary: The proposed amendments:

- Weaken the rigor, transparency and public accountability in the Development Application Assessment and Determination process and give tremendous 'centralised' powers to the Planning Minister and Secretary and increase the potential for 'doing deals' behind closed doors.
- Reduce the rights of the public and elected Councillors to be part of the process, and for people to express and have their concerns heard and considered.
- Erode the requirement for EISs to be thorough and complete and challenged by the community.
- Reduce the rights and rigor of the judicial Merit Appeal process.
- **Do not** address or take up significant opportunities to achieve good and balanced assessments of environmental benefits of strategic planning, well defined and readily administered legislation that protects the integrity of, or conserves, high value environments.
- **Do not** address or include assessment of environmental costs or experienced real costs and jobs for adjacent or down-stream land-uses and industries.
- **Do not** include, address or promote through an easier legislative path, restoration of historic/past approved damaging Government works or Approvals (e.g. 'Flood Mitigation' or 'Drainage' schemes).

In Conclusion: The Draft Bill, with its proposed centralised and politically influenced DA assessment process, further favours 'Big end of town', individual proposed 'Developments' on the basis of a single blinkered view of 'economic benefit' – This, as proposed by the Developer in the individual proposals and EISs prepared at their cost and instruction. It also provides Minister and Secretary power and opportunity for the ability to 'do deals'. It reduces and almost eliminates balanced assessment and real consideration of other broader holistic costs, benefits and impacts.

The Draft Bill does not take the opportunity to provide balanced legislation to retain and improve the environment and blatantly excludes the people of NSW from the process: who are residents, communities, farmers and businesses; whom also happen to be the voting electorate.

We oppose and urge the withdrawal of the draft Bill, and should it ever placed for debate in this form we urge parliament to resoundingly reject it.

Yours Faithfully

A handwritten signature in black ink, reading 'Rupert G H Milne Home'. The signature is stylized with a large 'R' and a long horizontal line extending from the end.

**Rupert G H Milne Home**

Vice Chair and Secretary of Save Our Macleay River Inc.

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