

# **Victorian Environmental Assessment Council Bill**

## **Circulation Print**

### **EXPLANATORY MEMORANDUM**

- Clause 1 states the purpose and provides an outline of the Bill.
- Clause 2 provides for the commencement of the Bill. Clauses 1 and 2 come into operation on the day after Royal Assent. The remaining clauses will come into operation on a day or days to be proclaimed but no later than 1 July 2001.
- Clause 3 defines the terms "additional member", "Council", "investigation", "member" and "request" for the purpose of the Bill.
- Clause 4 establishes the Victorian Environmental Assessment Council.
- Clause 5 states the objectives of the Council.
- Clause 6 states the functions of the Council. The main function of the Council is to carry out investigations requested by the Minister on any matter relating to the protection and ecologically sustainable management of the environment and natural resources of the State of Victoria. This function is not confined to public land.
- Clause 7 provides that the Council may do anything reasonably necessary or convenient to enable it to carry out its functions, including the appointment of committees.
- Clause 8 provides for a Council of 5 members, appointed by the Governor in Council on the recommendation of the Minister, with collective knowledge, skills and experience in various areas that are relevant to the functions of the Council. This clause also provides for the appointment of additional members of the Council for the purpose of particular investigations.

- Clause 9 provides for the appointment of members of the Council, for the appointment of additional members of the Council for the purpose of particular investigations, for the reappointment of members, for the removal and resignation of members, for the appointment of acting members, for instruments specifying the terms and conditions of appointment, for the filling of vacancies on the Council, for the payment of remuneration and allowances to members and for the tabling in Parliament of a statement of reasons where a member is removed. This clause also provides that a member of the Council is not subject to the **Public Sector Management and Employment Act 1998**.
- Clause 10 provides for the proceedings of the Council including who is to preside, voting entitlements and the limited role of additional members of the Council (who may vote only on matters directly relating to the investigation in respect of which they were appointed).
- Clause 11 provides that an act or decision of the Council is not to be invalid simply because of a vacancy in the membership of the Council or because of a defect or irregularity in relation to the appointment of a member. This clause also provides that something done by or in relation to a person purporting to act as the Chairperson or a member of the Council is not to be invalid simply because of various problems with their appointment.
- Clause 12 provides for the Council to appoint and abolish committees, for the Council to determine the procedure of each committee and for non-Council members to be members of committees.
- Clause 13 provides for the Council to appoint for each investigation a Community Reference Group that includes representatives with interests relevant to the investigation.
- Clause 14 provides for the Council to submit an annual report to the Minister regarding its investigations for the previous financial year and for the tabling of the report in Parliament.
- Clause 15 provides for the Minister in writing to request the Council to carry out an investigation, for the Minister to specify or give directions to the Council regarding various aspects of the investigation and for a request to be amended or withdrawn. Under this clause, the Minister will have the ability to increase

or reduce the usual three opportunities for the community to make submissions.

- Clause 16 provides for a request and an amendment or withdrawal of a request to be tabled in Parliament within 7 sitting days and published in the Government Gazette and the internet within 7 days after it has been made.
- Clause 17 provides that after receiving a request from the Minister, the Council is required to prepare a business plan including the resources required for the investigation. The Minister must consult with the Council and ensure that the necessary resources are made available by the Department Head of the Department of Natural Resources and Environment.
- Clause 18 provides that in carrying out an investigation the Council must have regard to certain matters, foremost being the principles of ecologically sustainable development.
- Clause 19 provides that the Council must confer with a Department or public authority which may be affected by an investigation and those bodies to assist the Council in the investigation.
- Clause 20 provides that the Council must publish notice of an investigation which indicates where copies of the Minister's request may be obtained, and giving details of the opportunity for and manner of making submissions.
- Clause 21 provides for the Council to publish notice of a discussion paper or draft recommendations which indicates where a copy of the discussion paper or draft proposals may be obtained, and giving details of the opportunity for and manner of making submissions.
- Clause 22 provides that any person or body is entitled to make a submission on an investigation, a discussion paper and a draft proposals paper.
- Clause 23 provides that the Council must submit a report to be tabled in Parliament by the Minister of an investigation setting out a detailed rationale for each of its recommendations and stating reasons why it accepted, rejected or modified the main proposals made in submissions on the investigation. The report must be

accompanied by a copy of each submission made in relation to the investigation.

- Clause 24 provides that the Council may request the Minister for an extension of time to complete an investigation and for the Minister to grant or refuse such a request.
- Clause 25 provides for the Government to respond to a report of an investigation by the first sitting day which occurs after six months from the day of the tabling of the investigation report and for the Government's statement of response to be published within 7 days of being laid before each House of the Parliament.
- Clause 26 provides that if a statement of response of the Government accepts or partly accepts a recommendation of the Council, the Government must ensure that to that extent the recommendation is implemented.
- Clause 27 repeals the **Environment Conservation Council Act 1997**.
- Clause 28 provides that the repeal of the **Environment Conservation Council Act 1997** does not affect the continuing operation of any recommendations made by the Land Conservation Council or the Environment Conservation Council or affect anything done to give effect to such recommendations. This clause also provides for a recommendation of the Land Conservation Council to be amended or revoked by the Governor in Council on the recommendation of the Minister and for any recommendation of the Environment Conservation Council to be deemed to be a recommendation of the Victorian Environment Assessment Council.
- Clause 29 provides for a definition of "public land" to be inserted into the **Land Conservation (Vehicle Control) Act 1972** that will be required on the repeal of the **Environment Conservation Council Act 1997**. The **Land Conservation (Vehicle Control) Act 1972** currently adopts the definition of "public land" in the **Environment Conservation Council Act 1997**.