

**LOCAL GOVERNMENT AND HUNTER DISTRICT
WATER, SEWERAGE AND DRAINAGE
(AMENDMENT) ACT.**

Act No. 21, 1965.

An Act to prohibit the subdivision of land within the area of operations of The Hunter District Water Board unless certain requirements have been complied with; to confer on the said Board certain powers relating to agreements for the construction

Elizabeth II,
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construction of water and sewer mains and ancillary works; for these purposes to amend the Local Government Act, 1919, as amended by subsequent Acts, and the Hunter District Water, Sewerage and Drainage Act, 1938, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 13th December, 1965.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title
and
citation.

1. (1) This Act may be cited as the "Local Government and Hunter District Water, Sewerage and Drainage (Amendment) Act, 1965".

(2) The Hunter District Water, Sewerage and Drainage Act, 1938, as amended by subsequent Acts and by this Act, may be cited as the Hunter District Water, Sewerage and Drainage Act, 1938-1965.

Amendment
of Act No.
41, 1919.

2. The Local Government Act, 1919, as amended by subsequent Acts, is amended—

Sec. 327.
(Conditions
to be
observed
before
opening
new roads
or sub-
divisions.)

(a) (i) by inserting in paragraph (d) of subsection one, and paragraph (b) of subsection two, of section three hundred and twenty-seven after the word "Board," wherever occurring in those paragraphs the words "or the area of operations, within the meaning of the Hunter District Water, Sewerage and Drainage Act, 1938, as amended by subsequent Acts, of the Hunter District Water Board,";

(ii) by inserting in the same paragraphs after the word "Acts," where secondly occurring in each of those paragraphs the words "or, as the case may be, of section 34B of the Hunter District Water, Sewerage and Drainage Act, 1938, as amended by subsequent Acts,";

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- (b) (i) by inserting in paragraph (a) of subsection one of section 331A after the word "Board" the words "or the area of operations, within the meaning of the Hunter District Water, Sewerage and Drainage Act, 1938, as amended by subsequent Acts, of the Hunter District Water Board";
- (ii) by inserting in the same subsection after the word "Board" where lastly occurring the words "or the Hunter District Water Board, as the case may be,";
- (iii) by inserting in subsection two of the same section after the word "decision" the words ", in relation to any land referred to in paragraph (a) of subsection one of this section,";
- (iv) by inserting in the same subsection after the word "Board" the words "or the Hunter District Water Board, as the case may be,";
- (v) by inserting in the same subsection after the word "Acts" the words "or, as the case may be, of section 34B of the Hunter District Water, Sewerage and Drainage Act, 1938, as amended by subsequent Acts";
- (vi) by omitting from paragraph (a) of subsection three of the same section the words "The town" and by inserting in lieu thereof the words "Except in a case referred to in paragraph (b) or (d) of this subsection, the town";
- (vii) by inserting in the same paragraph after the word "Board" the words "or the area of operations, within the meaning of the Hunter District Water, Sewerage and Drainage Act, 1938, as amended by subsequent Acts, of the Hunter District Water Board";

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Sec. 331A.
(Procedure where plan of subdivision relates to land within the area of operations of the Metropolitan Water Sewerage and Drainage Board.)

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(viii) by inserting in the same paragraph after the word "Acts" where lastly occurring the words "or, as the case may be, under section 34B of the Hunter District Water, Sewerage and Drainage Act, 1938, as amended by subsequent Acts";

(ix) by inserting in paragraphs (b) and (c) of the same subsection after the word "subdivision" where firstly occurring in each of those paragraphs the words "of any land within, or partly within, the area of operations, within the meaning of the Metropolitan Water, Sewerage, and Drainage Act, 1924, as amended by subsequent Acts, of the Metropolitan Water Sewerage and Drainage Board,";

(x) by inserting at the end of the same subsection the following new paragraphs :—

(d) Where the council has, before the commencement of the Local Government and Hunter District Water, Sewerage and Drainage (Amendment) Act, 1965, approved, or approved subject to conditions, of a plan of subdivision of any land within, or partly within, the area of operations, within the meaning of the Hunter District Water, Sewerage and Drainage Act, 1938, as amended by subsequent Acts, of the Hunter District Water Board, and the town or shire clerk has not, at such commencement, given his certificate in respect of such plan of subdivision under paragraph (d) of subsection one, or paragraph (b) of subsection two, of section three hundred and twenty-seven of this Act, the town or shire clerk, as the case may be, in giving such certificate shall also certify that the plan was approved, or approved subject to conditions, as the case may be, before such commencement, and, where the town or shire clerk

clerk so certifies, he shall be deemed to have certified, for the purposes of the said paragraphs (d) and (b), that the requirements, relating to the plan of subdivision, of section 34B of the Hunter District Water, Sewerage and Drainage Act, 1938, as amended by subsequent Acts, have been complied with. No. 21, 1965

(e) Where the town or shire clerk has, in relation to any plan of subdivision of any land within, or partly within, the area of operations, within the meaning of the Hunter District Water, Sewerage and Drainage Act, 1938, as amended by subsequent Acts, of the Hunter District Water Board, given a certificate under paragraph (d) of subsection one, or paragraph (b) of subsection two, of section three hundred and twenty-seven of this Act and such certificate bears a date which is before the commencement of the Local Government and Hunter District Water, Sewerage and Drainage (Amendment) Act, 1965, the town or shire clerk, as the case may be, shall be deemed to have certified, for the purposes of the said paragraphs (d) and (b), that the requirements, relating to the plan of subdivision, of section 34B of the Hunter District Water, Sewerage and Drainage Act, 1938, as amended by subsequent Acts, have been complied with.

3. The Hunter District Water, Sewerage and Drainage Act, 1938, as amended by subsequent Acts, is amended by inserting next after section thirty-four the following new sections :—

34A. (1) The board may enter into an agreement under this section with the owner of any land within the area of operations of the board, or with any person authorised to enter into an agreement on his behalf, providing

Amendment
of Act No.
11, 1938.
New secs.
34A, 34B.

Private
contracts
for con-
struction
of water
and sewer
mains.

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providing for the construction of either a water or sewer main, or both, and such ancillary works as may be specified in the agreement, to serve the land of such owner specified in the agreement, either alone or together with other lands.

Any main or ancillary works constructed pursuant to any such agreement shall be a main and ancillary works of the board.

(2) The board shall not enter into an agreement under this section for the construction of a water or sewer main, or both, and any necessary ancillary works, unless the State Planning Authority of New South Wales has issued to it a certificate in writing that in the opinion of the State Planning Authority of New South Wales the land of the owner referred to in the proposed agreement should not be subdivided unless the water or sewer main, or both, as the case may be, and any necessary ancillary works, is or are constructed to serve such land or any part thereof, either alone or together with other lands.

(3) Any agreement under this section may make provision for—

- (a) the payment to the board by the owner of such land, or person so authorised, of the whole of the cost of the construction of the main or mains and ancillary works or such part thereof as the board considers reasonable to be paid in respect of such land, having regard to the benefit of such main or mains and works to the land of such owner specified in the agreement and to any other lands that will be, in the opinion of the board, capable of being served by such main or mains and works;
- (b) the amount to be advanced to the board by such owner or person towards any remaining part of the cost of construction of such main or mains and works;

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- (c) the repayment to such owner or person by the board of the whole, or such part as may be agreed upon, of the advance referred to in paragraph (b) of this subsection; No. 21, 1965
- (d) security to be lodged with the board in lieu of any payment or advance referred to in paragraph (a) or (b) of this subsection; and
- (e) such other matters as may be agreed upon.

(4) It shall not be necessary for the Governor's approval to be given to any advance referred to in paragraph (b) of subsection three of this section.

34B. (1) Where an application for approval to subdivide any land within, or partly within, the area of operations of the board has been approved, or approved subject to conditions, under the Local Government Act, 1919, as amended by subsequent Acts, by the council of the area in which the land is situated, or an award, other than an award disallowing the decision or all of the decisions appealed from, as the case may be, has been made under subsection one of section 341L of that Act, as so amended, by the Board of Subdivision Appeals in respect of any such land, the applicant to whom any such approval was given or in whose favour any such award was made may—

Subdividers may obtain certificates that the requirements of this section have been complied with.

- (a) lodge a copy of the plan of subdivision with the board; and
- (b) apply to the board for a certificate under this section certifying that the applicant has complied with the requirements, relating to the plan of subdivision, of this section.

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(2) Where a copy of any plan of subdivision is lodged with, and an application is made to, the board in accordance with the provisions of subsection one of this section, the board may—

(a) if it does not propose to serve upon the applicant a notice under paragraph (b) or (c) of this subsection, issue to the applicant a certificate that the applicant has complied with the requirements, relating to the plan of subdivision, of this section;

(b) where any main constructed, or to be constructed, pursuant to an agreement under section 34A of this Act is, or after its construction will be, available to be connected to and of adequate capacity to serve such land or any part thereof (whether with or without the construction of any additional mains), and the application is made within fifteen years after the date of the agreement, serve a notice upon the applicant requiring him to do such one or more of the following things as is or are specified in the notice, that is to say—

(i) to pay to the board such amount, specified in the notice, as is assessed by the board as being a reasonable proportion of the cost of the construction of the main and any ancillary works constructed, or to be constructed, pursuant to the agreement, having regard to the benefit of such main and works to the land referred to in the application;

(ii) to enter into an agreement with the board under section 34A of this Act providing for the construction of any additional main or works which is or are capable of serving only such land;

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(iii) to enter into an agreement with the board under section 34A of this Act providing for the construction of any additional main or works which is or are capable of serving other lands as well as the land referred to in the application; or

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(c) where the land is not land in respect of which the board is entitled to serve a notice under paragraph (b) of this subsection, serve a notice upon the applicant requiring him to enter into an agreement under section 34A of this Act providing for the construction of a water or sewer main, or both, and any necessary ancillary works.

(3) Where the board has served a notice under paragraph (b) or (c) of subsection two of this section and the board is satisfied that the requirements of the notice have been complied with, the board shall issue to the applicant therefor a certificate that the applicant has complied with the requirements, relating to the plan of subdivision, of this section.

(4) If within the prescribed period a certificate under paragraph (a) of subsection two of this section has not been issued to, and a notice under paragraph (b) or (c) of the said subsection two has not been served upon, the applicant for a certificate under this section, the board shall upon the request of the applicant issue to the applicant a certificate that the applicant has complied with the requirements, relating to the plan of subdivision, of this section.

In this subsection "prescribed period" means a period of sixty days after the lodgment under subsection two of this section with the board of the copy of the plan of subdivision, or such longer period as may have been

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approved in a particular case by the Minister, and notified in writing to the applicant, within the said period of sixty days.

(5) (a) The board shall not serve a notice under subparagraph (ii) or (iii) of paragraph (b), or under paragraph (c), of subsection two of this section requiring the applicant for a certificate under this section to enter into an agreement under section 34A of this Act for the construction of a water or sewer main, or both, or any ancillary works, to serve any land unless—

- (i) it has referred to the State Planning Authority of New South Wales a copy of the plan of subdivision in relation to which the applicant has applied for such certificate; and
- (ii) that Authority has issued to the board a certificate under subsection two of section 34A of this Act in respect of the construction of the water or sewer main, or both, as the case may be, and ancillary works.

(b) The State Planning Authority of New South Wales shall within twenty days after a copy of a plan of subdivision is referred to it by the board, either—

- (i) inform the board that it does not propose to issue in relation to the land comprised in such plan a certificate under subsection two of section 34A of this Act; or
- (ii) issue such a certificate in respect of the construction of a water or sewer main, or both, and any necessary ancillary works, to serve such land or any part thereof, either alone or together with other lands.

(6)

Public Health (Amendment) Act.

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(6) Any requirement of any notice under No. 21, 1965 subparagraph (i) of paragraph (b) of subsection two of this section shall be deemed to have been complied with if security, in such form as the board considers satisfactory, for the payment of the amount required to be paid under the notice has been lodged with the board.

(7) Any notice that may be served by the board upon an applicant for a certificate under this section relating to any land may be served upon such applicant as if he were the owner of such land and the notice were required to be served by the board upon him.
