



New South Wales

Environmental Planning and Assessment Amendment (Certification) Act 2024 No 72

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Environmental Planning and Assessment Amendment (Certification) Act 2024 No 72

Act No 72, 2024

An Act to amend the *Environmental Planning and Assessment Act 1979* to provide that the Minister for Planning and Public Spaces may certify development in certain circumstances; to validate certain certificates; and for related purposes. [Assented to 23 October 2024]

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Environmental Planning and Assessment Amendment (Certification) Act 2024*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Environmental Planning and Assessment Act 1979 No 203

[1] Section 2.9 Functions of Commission

Omit “Division 5 of Part 4AA of *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*” from section 2.9(1), note.

Insert instead “*State Environmental Planning Policy (Resources and Energy) 2021*, Chapter 2, Part 2.4, Division 5”.

[2] Section 6.1 Definitions: Part 6

Omit section 6.1, definition of *certifier*. Insert instead—

certifier means—

- (a) a council or a registered certifier, or
- (b) for development for which the Minister granted development consent—the council, a registered certifier or the Minister.

[3] Section 6.5A

Insert after section 6.5—

6.5A Additional persons with function of issuing subdivision certificate

- (1) A person prescribed by the regulations has the function of issuing a subdivision certificate in relation to development prescribed by the regulations.
- (2) The person must, within 21 days of issuing a subdivision certificate, notify the Planning Secretary in writing that the person has issued the certificate.
- (3) This part otherwise applies to the issuing of the certificate by the person in the same way the part applies to the issuing of a certificate by a certifier.

[4] Section 6.23 Making of applications for building information certificates

Omit section 6.23(2), note.

[5] Section 7.44 Charges and fees fixed by regulation

Insert after section 7.44(1A)—

- (1B) The regulations may prescribe the following in relation to a building information certificate issued under Part 6, Division 6.7—
 - (a) charges and fees payable in connection with a certificate,
 - (b) mechanisms to determine charges and fees payable in connection with a certificate.

[6] Schedule 1 Community participation requirements

Omit “*State Environmental Planning Policy No 55—Remediation of Land*” wherever occurring in clause 9A.

Insert instead “*State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 4”.

[7] Schedule 8 Special provisions

Insert at the end of the schedule, with appropriate part and clause numbering—

Part Validation of certificates

Validation of certain occupation certificates

The following occupation certificates are validated, to the extent of any invalidity, and are taken to have been duly granted in accordance with this Act and otherwise in accordance with law on and from the date on which each certificate was issued—

- (a) Final Occupation Certificate 01-04-2020 issued on 3 June 2020 in relation to Development Application 9116 concerning Lot 118, DP 756697, Mount Tate Road, Guthega,
- (b) Final Occupation Certificate 02-06-2020 issued on 29 July 2020 in relation to Development Application 4-1-2006-i concerning Lot 30, DP 725492, 1400 Kosciuszko Road, Jindabyne,
- (c) Final Occupation Certificate 01-08-2022 issued on 18 May 2023 in relation to Development Application 10194 concerning ‘Bundara’, Mountain Rivers 4, Lot 630, DP 1118588, 5 Valley Close, Thredbo, and which erroneously identified the land as “Lot 530”,
- (d) Interim Occupation Certificate 01-10-21 issued on 28 October 2021 in relation to Development Application 95-133 concerning various lots on Harbour Boulevard, Shell Cove.

Repeal of part

This part is repealed on the day that is 6 months after the day on which the part commences.

Schedule 2 Amendment of other legislation

2.1 Building and Development Certifiers Act 2018 No 63

Section 5 Certification work requires registration

Omit section 5(2). Insert instead—

- (2) The following persons are not required to be registered to carry out certification work—
 - (a) a local council,
 - (b) the Minister administering the *Environmental Planning and Assessment Act 1979* or a delegate of the Minister.

2.2 Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021

Section 53A

Insert before section 54—

53A Persons with function of issuing subdivision certificates—the Act, s 6.5A

- (1) The following persons have the function of issuing a subdivision certificate in relation to a subdivision carried out by or on behalf of the person—
 - (a) Newcastle Port Corporation,
 - (b) the port operator, within the meaning of the *Ports and Maritime Administration Act 1995*, of the following ports—
 - (i) the Port of Botany Bay,
 - (ii) the Port of Newcastle,
 - (iii) Port Kembla,
 - (c) Transport for NSW.
- (2) Transport for NSW also has the function of issuing a subdivision certificate in relation to development for which Transport for NSW granted development consent.

2.3 Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017

Clauses 18B, 18BA and 18C

Omit the clauses.

[Second reading speech made in—

Legislative Assembly on 18 September 2024

Legislative Council on 17 October 2024]