



New South Wales

State Environmental Planning Policy (Biodiversity and Conservation) Amendment (Cumberland Plain Biodiversity Certification) 2022

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

ANTHONY ROBERTS, MP
Minister for Planning

State Environmental Planning Policy (Biodiversity and Conservation) Amendment (Cumberland Plain Biodiversity Certification) 2022

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Biodiversity and Conservation) Amendment (Cumberland Plain Biodiversity Certification) 2022*.

2 Commencement

This Policy commences on the day on which it is published on the NSW legislation website.

3 Repeal of Policy

This Policy is repealed at the beginning of the day following the day on which this Policy commences.

4 Maps

The maps adopted by *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 13, are amended or replaced, as the case requires, by the maps approved by the Minister on the making of this Policy.

Schedule 1 Amendment of State Environmental Planning Policy (Biodiversity and Conservation) 2021

[1] Section 6.3 Relationship with other environmental planning instruments

Omit “2.80(2)” from section 6.3(2). Insert instead “2.80(3)”.

[2] Section 13.10 Subdivision of avoided land

Insert after section 13.10(2)—

- (3) This section does not apply to a subdivision of land carried out by the National Parks and Wildlife Service.

[3] Part 13.5A

Insert after Part 13.5—

Part 13.5A Applications to modify conferral of biodiversity certification

Division 1 Preliminary

13.16A Aim of Part

The aim of this Part is to establish a process for the Minister to initiate an application to modify biodiversity certification after the assessment of a request from a relevant landowner for a minor modification involving relevant land.

13.16B Definitions

In this Part—

biodiversity certification has the same meaning as in the *Biodiversity Conservation Act 2016*.

modification request—see section 13.16C(1).

relevant land means the following land—

- (a) certified urban capable land,
- (b) avoided land.

relevant landowner—see section 13.16C(2).

Division 2 Initial assessment by Minister

13.16C Application to request preparation of application to modify biodiversity certification

- (1) An application (a *modification request*) may be made to the Minister to request the preparation of an application to modify, under the *Biodiversity Conservation Act 2016*, section 8.22(1)(a), the biodiversity certification for certified urban capable land by including or excluding relevant land.
- (2) A modification request may only be made by or on behalf of the owner of relevant land (a *relevant landowner*).
- (3) A modification request must—
 - (a) be made in the approved form, and

- (b) include or be accompanied by information or evidence the Minister reasonably requires to assess the application, and
 - (c) be accompanied by the application fee.
- (4) The Minister may require further documents or information to be provided by the applicant.
- (5) The applicant may withdraw the modification request at any time before the applicant receives written notice of the decision under section 13.16D(3).

13.16D Minister may approve further assessment or refuse request

- (1) The Minister may, after receiving a modification request—
- (a) approve a further assessment of the request, or
 - (b) refuse the request.
- (2) The Minister may refuse the modification request—
- (a) if the application—
 - (i) is incomplete, or
 - (ii) does not, in the opinion of the Minister, comply with a requirement of the following—
 - (A) this Part,
 - (B) the Act,
 - (C) the *Biodiversity Conservation Act 2016*,
 - (D) the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, or
 - (b) for another reason the Minister considers appropriate.
- (3) The Minister must give the following to the applicant—
- (a) written notice of the decision,
 - (b) if a further assessment of the request is approved—
 - (i) written notice of the fee, if any, required for the further assessment of the request, and
 - (ii) information about how an application to modify the biodiversity certification under the *Biodiversity Conservation Act 2016*, section 8.22 may be made,
 - (c) if the request is refused—the reasons for refusing the request.

Division 3 Further assessment of modification request

13.16E Further assessment of modification request

- (1) The Minister may carry out a further assessment of a modification request—
- (a) after approving the further assessment under section 13.16D(1)(a), and
 - (b) on payment of the fee, if any, specified in the notice given to the applicant under section 13.16D(3)(b)(i).
- (2) The Minister may, in carrying out the further assessment, require further documents or information to be provided by the applicant.
- (3) On completion of the further assessment, the Minister must give written notice of the following to the applicant—

- (a) whether the Minister intends to make an application to modify biodiversity certification under the *Biodiversity Conservation Act 2016*, section 8.22 (the ***Minister's application***),
 - (b) information about whether the substance of the applicant's request will be included in the Minister's application,
 - (c) a copy of the part of the Minister's application, if any, relating to the applicant's request.
- (4) The applicant is not, at any time, entitled to request changes to the Minister's application.

[4] Section 13.19 Savings and transitional provision

Insert at the end of the section—

- (2) Subsection (1) does not apply to a development application for development on the following land at Appin—
 - (a) Lot 1, DP 1218358, 55 Macquariedale Road,
 - (b) Lot 1, DP 1148758, 43 Appin Road,
 - (c) Lot 1, DP 249446, 10 Brooks Point Road.