

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

under the

Environmental Planning and Assessment Act 1979

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*.

2 Commencement

This Regulation commences on the commencement of Schedule 13 to the *Environmental Planning and Assessment Amendment Act 2017*.

Note. See section 10.16 of the Act for provisions relating to the making of this Regulation and the application to this Regulation of provisions of the *Interpretation Act 1987* and the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

the Act means the *Environmental Planning and Assessment Act 1979*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

Part 2 Provisions consequent on enactment of Environmental Planning and Assessment Amendment Act 2017

4 Definitions: Part 2

In this Part:

amending Act means the *Environmental Planning and Assessment Amendment Act 2017*.

assets means any legal or equitable estate or interest (whether present or future and whether vested or contingent and whether personal or assignable) in real or personal property of any description (including money), and includes securities, choses in action and documents.

liabilities means all liabilities, debts and obligations (whether present or future and whether vested or contingent and whether personal or assignable).

rights means all rights, powers, privileges and immunities (whether present or future and whether vested or contingent and whether personal or assignable).

5 Interpretation of transferred provisions not affected by transfer

The provisions of Schedules 1, 2 and 3 are, to the extent that as a result of the amending Act they re-enact provisions of the Act, transferred provisions to which section 30A of the *Interpretation Act 1987* applies.

6 Ministerial corporation sole (cf previous s 8)

- (1) The Planning Ministerial Corporation constituted under this Act is taken for all purposes, including the rules of private international law, to be a continuation of, and the same legal entity as, the corporation constituted as the “Minister administering the *Environmental Planning and Assessment Act 1979*” under section 8 of the Act immediately before the repeal of that section by the amending Act.
- (2) Without limiting the operation of this clause, the assets, rights and liabilities of the corporation so constituted are the assets, rights and liabilities of the Planning Ministerial Corporation.

7 Planning Assessment Commission (cf previous s 23B)

- (1) The Independent Planning Commission constituted under the Act is taken for all purposes, including the rules of private international law, to be a continuation of, and the same legal entity as, the Planning Assessment Commission established under section 23B of the Act immediately before the repeal of that section by the amending Act.
- (2) Without limiting the operation of this clause, the assets, rights and liabilities of the Planning Assessment Commission are the assets, rights and liabilities of the Independent Planning Commission constituted under the Act.
- (3) A person holding office as a member of the Planning Assessment Commission immediately before the commencement of this clause is taken to have been appointed as a member of the Independent Planning Commission for the balance of the member’s term of office under the Act.
- (4) A determination (or purported determination) by the chairperson of the Planning Assessment Commission before the commencement of this clause for the Commission to be constituted by more or fewer than 3 members for the purposes of exercising its functions with respect to a particular matter is taken to be, and always to have been, valid.

8 Sydney planning panels

- (1) A person holding office as a member of a Sydney planning panel (including a council nominee) under Part 3 of the *Greater Sydney Commission Act 2015* immediately before the commencement of this clause is taken to have been appointed or nominated as a member of the corresponding Sydney district planning panel established under the Act for the balance of the person's term of office.
- (2) A reference in this clause to a member includes a reference to an alternate of a member appointed under the *Greater Sydney Commission Act 2015*.

9 Joint regional planning panels

- (1) A person holding office as a member of a joint regional planning panel (including a council nominee) under section 23G of, and Schedule 4 to, the Act immediately before the commencement of this clause is taken to have been appointed or nominated as a member of the corresponding regional planning panel established under the Act for the balance of the person's term of office.
- (2) A reference in this clause to a member includes a reference to an alternate of a member appointed under the Act.

10 Local planning panels

- (1) A person holding office as a member of a local planning panel under section 23K immediately before the commencement of this clause is taken to have been appointed by the applicable council as a member of a local planning panel under the Act for the balance of the person's term of office.
- (2) A reference in this clause to a member includes a reference to an alternate of a member appointed under the Act.

11 Existing delegations

A delegation of a function under section 23 of the Act (as in force before the repeal of that section by the amending Act) is, on that repeal, taken to be a delegation of that function under section 2.4 of the Act.

12 Registration of consent on NSW planning portal

A provision of the Act inserted by the amending Act that provides for the registration of a development consent or other approval on the NSW planning portal is taken, until the planning portal provides a facility for that registration, to provide for the notification of the consent or approval to the applicant for the consent or approval.

13 Construction of references to Part 5 or 5.1 of Act

- (1) A reference in any Act or statutory or other instrument under an Act, or in any contract or agreement, to Part 5 or Part 5.1 of the Act is, on and after the amendment of that Part by the amending Act, to be read as a reference to Division 5.1 or Division 5.2, respectively, of Part 5 of the Act.
- (2) This clause does not apply to any such reference in the Act or this Regulation and is subject to any contrary intention in the provision in which the reference occurs.

14 Existing building and other Part 4A certificates

- (1) A certificate that was issued under Part 4A of the Act (as in force immediately before the repeal of that Part) and that continues to have effect is taken to be a corresponding certificate issued under Part 6 of the Act.
- (2) Part 4A of the Act (as in force immediately before the repeal of that Part) continues to apply to an application for a certificate under that Part pending on the repeal of that

Part. Subclause (1) extends to a certificate issued on the determination of any such application.

Schedule 1 Transferred savings, transitional and other provisions—former Schedule 6 to the Act

Note. Schedule 10 to the *Environmental Planning and Assessment Amendment Act 2017* provides that Schedule 6 to the Act is omitted from the Act and transferred to this Regulation as Schedule 1. The provisions will be incorporated into this Regulation on the NSW Legislation website when that amending Act commences.

Schedule 2 Transferred transitional arrangements on repeal of Part 3A—former Schedule 6A to the Act

Note. Schedule 10 to the *Environmental Planning and Assessment Amendment Act 2017* provides that Schedule 6A to the Act is omitted from the Act and transferred to this Regulation as Schedule 2. The provisions will be incorporated into this Regulation on the NSW Legislation website when that amending Act commences.

Schedule 3 Other transferred provisions—former Parts 1–3 of Schedule 7 to the Act

Note. Schedule 10 to the *Environmental Planning and Assessment Amendment Act 2017* provides that Parts 1, 2 and 3 of Schedule 7 to the Act is omitted from the Act and transferred to this Regulation as Schedule 3. The provisions will be incorporated into this Regulation on the NSW Legislation website when that amending Act commences.