



New South Wales

Heritage Amendment (Applications) Regulation 2021

under the

Heritage Act 1977

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Heritage Act 1977*.

DON HARWIN, MLC

Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts

Explanatory note

The object of this Regulation is to amend the *Heritage Regulation 2012* to—

- (a) enable additional information about an application for approval under Part 4, Division 3 of the *Heritage Act 1977* to be requested to help the approval body to make a determination, and
- (b) to prescribe the period of time that is not to be taken into account in the period of assessing a determination, as referred to in section 65(1) of the Act.

This Regulation is made under the *Heritage Act 1977*, including sections 62(2), 65(4) and 165 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Heritage Amendment (Applications) Regulation 2021*.

2 Commencement

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

Schedule 1 Amendment of Heritage Regulation 2012

Part 2A

Insert after Part 2—

Part 2A Process for determination of application for approval

8A Definitions

In this Part—

application for approval means—

- (a) an application for approval for the doing or carrying out of an act, matter or thing referred to in section 57(1) of the Act, or
- (b) an application for the modification of an approval under section 65A of the Act.

approval body—see section 56 of the Act.

assessment period means the period of 40 days or the period of 60 days, as the case may require, for the approval body to determine an application for approval, as referred to in section 65(1) of the Act.

8B Approval body may request additional information

- (1) In determining an application for approval, the approval body may request the applicant provide additional information the approval body considers necessary to properly consider the application.
- (2) The request—
 - (a) must be in writing, and
 - (b) may specify a reasonable period within which the information must be provided to the approval body, and
 - (c) must include the number of days of the assessment period that have elapsed and the effect of clause 8C on the assessment period.
- (3) The information the approval body may request includes, but is not limited to, information relating to 1 or more relevant matters referred to in section 62 of the Act.
- (4) The applicant to whom a request is made under this clause may notify the approval body in writing that the information will not be provided.
- (5) The applicant is taken to have notified the approval body the information will not be provided, and the application may be dealt with accordingly, if the applicant has failed to provide the requested information by the end of—
 - (a) the specified period referred to in subclause (2)(b), or
 - (b) a further period allowed by the approval body.

8C Calculation of assessment period

For the purposes of section 65(4) of the Act, the period of time prescribed as not to be taken into account is that which elapses between the date of issue of a request for additional information by the approval body under clause 8B and the earlier of the following—

- (a) the date on which the information is provided to the approval body,

- (b) the date on which the applicant notifies, or is taken to have notified, the approval body in writing that the information will not be provided.