

# Environmental Planning and Assessment Amendment Act 2014 No 79

[2014-79]



New South Wales

## Status Information

### Currency of version

Historical version for 1 August 2015 to 30 September 2015 (accessed 19 July 2024 at 3:37)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

Some, but not all, of the provisions displayed in this version of the legislation have commenced.

### Notes—

- **Note**

Amending Acts and amending provisions are subject to automatic repeal pursuant to sec 30C of the [Interpretation Act 1987 No 15](#) once the amendments have taken effect.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Environmental Planning and Assessment Amendment Act 2014 No 79



New South Wales

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# Environmental Planning and Assessment Amendment Act 2014 No 79



New South Wales

An Act to amend the *Environmental Planning and Assessment Act 1979* with respect to offences and penalties, enforcement powers and ePlanning; and for other purposes.

## 1 Name of Act

This Act is the *Environmental Planning and Assessment Amendment Act 2014*.

## 2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).
- (2) Schedules 4 (except Schedule 4 [6]) and 5 commence on the date of assent to this Act.

## Schedule 1 Amendment of *Environmental Planning and Assessment Act 1979 No 203*—Offences and penalties

[1]-[12] (Repealed)

[13] Section 148B

Insert before section 149:

### **148B Offence—false or misleading information**

- (1) A person must not provide information in connection with a planning matter that the person knows, or ought reasonably to know, is false or misleading in a material particular.
- (2) The maximum penalty for an offence under section 125 arising under this section is a tier 3 maximum penalty.
- (3) For the purposes of this section, a person provides information in connection with a planning matter if:

- (a) the person is an applicant for a consent, approval or certificate under this Act (or for the modification of any such consent, approval or certificate) and the information is provided by the applicant in or in connection with the application, or
  - (b) the person is engaged by any such applicant and the information is provided by that person for the purposes of the application, or
  - (c) the person is a proponent of proposed development and the information is provided in or in connection with a formal request to the Minister, a council, the Secretary or other planning authority for the making of provisions of an environmental planning instrument, Ministerial planning order, plan or other document under this Act in relation to the proposed development, or
  - (d) the person provides information in connection with any other matter or thing under this Act that the regulations declare to be the provision of information in connection with a planning matter for the purposes of this section.
- (4) An environmental impact statement or other document is part of information provided in connection with a matter if it forms part of or accompanies the matter or is subsequently submitted in support of the matter.

**Note—**

The *Crimes Act 1900* contains other offences relating to false and misleading information: section 192G (Intention to defraud by false or misleading statement—maximum penalty 5 years imprisonment); sections 307A, 307B and 307C (False or misleading applications/information/documents—maximum penalty 2 years imprisonment or \$22,000, or both).

## **Schedule 2 (Repealed)**

## **Schedule 3 Amendment of *Environmental Planning and Assessment Act 1979 No 203*—ePlanning**

### **[1] Section 4 Definitions**

Insert in alphabetical order in section 4 (1):

***Ministerial planning order*** means an order made by the Minister and published on the NSW planning portal.

***NSW planning portal*** means the website with the URL of [www.planningportal.nsw.gov.au](http://www.planningportal.nsw.gov.au), or any other website, used by the Secretary to provide public access to documents or other information in the NSW planning database.

### **[2] Section 4 (6)**

Omit “by order published in the Gazette”. Insert instead “by Ministerial planning order”.

**[3] Section 4 (15)**

Insert after section 4 (14):

(15) A reference in this Act to a map includes a reference to a spatial dataset.

**[4] Section 23 Delegation**

Omit “published in the Gazette” from section 23 (7).

Insert instead “published on the NSW planning portal”.

**[5] Section 54 Relevant planning authority**

Omit “by order published in the Gazette” from section 54 (6).

Insert instead “by Ministerial planning order”.

**[5A] Section 79 Public participation—designated development**

Omit “in a newspaper circulating in the locality” from section 79 (1) (d).

**[6] Section 82D Effect of review of decisions**

Omit section 82D (4).

**[7] Section 83 Date from which consent operates**

Omit section 83 (1). Insert instead:

- (1) Subject to subsections (2) and (3), if a determination is made by the granting of consent, consent becomes effective and operates on and from:
  - (a) the date the determination is registered on the NSW planning portal, or
  - (b) in the case of designated development to which an objection has been made in accordance with section 79 (5) (being consent that was not granted under section 80 (6) or (7) following the holding of a public hearing by the Planning Assessment Commission)—the end of 28 days after the date the determination is registered on the NSW planning portal.

**[8] Section 83 (2) (b)**

Omit “operates from the date of the determination of that appeal”.

Insert instead “operates (subject to any order of the court) on and from the date the decision is registered on the NSW planning portal after the determination of the appeal”.

**[9] Section 83 (4)**

Omit “operates from the date of that decision”.

Insert instead “operates (subject to any order of the court) on and from the date the decision is registered on the NSW planning portal”.

**[10] Section 89C Development that is State significant development**

Omit “by order published in the Gazette” from section 89C (3).

Insert instead “by Ministerial planning order”.

**[11] Section 110A Nomination of nominated determining authority**

Omit “by order published in the Gazette and in a newspaper circulating throughout the State” from section 110A (1).

Insert instead “by Ministerial planning order”.

**[12] Section 115P Approval of Minister administering this Act required for designated fishing activity where Fisheries Minister is or is declared to be proponent**

Omit “by order published in the Gazette” from section 115P (1) (b).

Insert instead “by Ministerial planning order”.

**[13] Section 117 Directions by the Minister**

Omit “publication in the Gazette or on a website maintained by the Department (or both)” from section 117 (2A).

Insert instead “publication on the NSW planning portal”.

**[14] Section 118 Appointment of planning administrator, planning assessment panel or regional panel**

Omit “published in the Gazette” from section 118 (7), (7A) and (9) wherever occurring.

Insert instead “published on the NSW planning portal”.

**[15] Section 158A Copyright in documents used for purposes of this Act**

Insert after section 158A (1):

(1A) The regulations may require a relevant person who is entitled to copyright in a document that is part of a planning matter to give (in the planning matter or otherwise) a licence to the State or a council to use the copyright material for the purposes of this Act. The regulations may also require a relevant person who is not so entitled to that copyright to give a warranty (in the planning matter or otherwise)

that the relevant person has a licence to so use the copyright material from the person who is entitled to copyright in any such document.

**[16] Section 158A (4A)**

Insert after section 158A (4):

(4A) This section extends to planning matters in paper or electronic form.

**[17] Sections 158B-158E**

Insert after section 158A:

**158B Online planning services and information**

The Secretary is to establish and facilitate the online delivery of planning services and information (including the NSW planning portal).

**158C Establishment, content and maintenance of NSW planning database**

- (1) The NSW planning database is established for the purposes of this Act.
- (2) The NSW planning database is an electronic repository of:
  - (a) documents that are required by or under this Act to be published on the NSW planning portal, and
  - (b) environmental planning instruments, plans or other documents that are required by or under this Act to be published on the NSW legislation website, and
  - (c) spatial datasets or other maps that are adopted or incorporated by way of reference by those provisions or documents, and
  - (d) other documents or information relating to the administration of this Act required to be published on the NSW planning portal by the regulations or by the Secretary.
- (3) The NSW planning database is to maintain historical as well as current versions of documents and other material required to be published on the NSW planning portal.
- (4) The NSW planning database is to be compiled and maintained as determined by the Secretary.
- (5) The NSW planning database may comprise separate databases for different material. Any such separate databases may be compiled and maintained by

other agencies, including the legislation database compiled and maintained by the Parliamentary Counsel for publication of environmental planning instruments or other material on the NSW legislation website.

**158D Public access to documents and information on the NSW planning portal**

- (1) The Secretary is to make arrangements for documents or other information in the NSW planning database to be published on the NSW planning portal and such other websites as are determined by the Secretary.
- (2) The Secretary may certify the form of such documents or other information that is correct.
- (3) Environmental planning instruments, plans or other documents and information need not be published on the NSW planning portal if they are published on the NSW legislation website (or the website of another agency) and can be readily accessed from the NSW planning portal.
- (4) If the NSW planning portal is not available to publish a document or other information for technical or other reasons, the document or other information may be published on the NSW legislation website.

**Note—**

The NSW planning portal is defined by section 4 to mean the website with the URL of [www.planningportal.nsw.gov.au](http://www.planningportal.nsw.gov.au), or any other website, used by the Secretary to provide public access to documents or other information in the NSW planning database.

**158E Regulations and other provisions relating to online planning services and information**

- (1) The regulations may make provision for or with respect to the online delivery of planning services and information, including:
  - (a) the NSW planning portal and other specialised planning portals (including the status of services and information delivered online), and
  - (b) access to information (and the issue of certificates) about land use zoning and development standards relating to particular land, and
  - (c) the lodgment or submission of applications and other things under this Act, and
  - (d) the assessment of categories of development for which there are codified criteria or standards, and
  - (e) the registration of consents, approvals or certificates (or other documents) and their effect on registration, and



- (f) the notification of the making or determination of applications for (or the issue or grant of) consents, approvals or certificates (or other documents) by means of the NSW planning portal.
- (2) The charges or fees that may be prescribed by the regulations under section 137 extend to charges or fees in relation to the online delivery of planning services and information (including the compilation and maintenance of the NSW planning database, the operation of the NSW planning portal and the enhancement of the NSW planning database and the NSW planning portal).
- (3) For the purpose of facilitating online delivery of planning services and information:
  - (a) the Secretary may determine standard technical requirements with respect to:
    - (i) the preparation of environmental planning instruments, plans or other documents and of any spatial datasets or other maps that are referred to in (or adopted under) those instruments, plans or documents, and
    - (ii) the form of applications for consents, approvals or certificates (or other documents) under this Act and the form of any such consents, approvals or certificates (or other documents), and
  - (b) a council or other planning body is to provide the Secretary, when requested, with electronic files (in a specified format) of any such instruments, plans or other documents (or of any spatial datasets or other maps) prepared or held by it, and
  - (c) a council or other planning body is to implement any standard technical requirements determined by the Secretary to facilitate access to relevant data in the electronic systems maintained by the council or other body or to transfer that data to the NSW planning database.
- (4) The Secretary is to establish on a departmental website an alert facility to enable members of the public to register for the purposes of receiving electronic notification of selected new planning decisions and matters.

## **Schedule 4 Amendment of [Environmental Planning and Assessment Act 1979 No 203](#)—Miscellaneous**

### **[1]-[5] (Repealed)**

### **[6] Section 147 Disclosure of political donations and gifts**

Omit section 147 (8). Insert instead:

- (8) For the purposes of this section, persons are associated with each other if:
- (a) they carry on a business together in connection with the relevant planning application (in the case of the making of any such application) or they carry on a business together that may be affected by the granting of the application (in the case of a relevant planning submission), or
  - (b) they are related bodies corporate under the *Corporations Act 2001* of the Commonwealth, or
  - (c) they are directors of the same body corporate, or they are directors of different bodies corporate that are related bodies corporate under the *Corporations Act 2001* of the Commonwealth, or
  - (d) one is a director of a body corporate and the other is the body corporate or a related body corporate under the *Corporations Act 2001* of the Commonwealth, or
  - (e) they have any other relationship prescribed by the regulations.

**[7] (Repealed)**

## **Schedule 5 (Repealed)**

## **Schedule 6 Amendment of *Environmental Planning and Assessment Regulation 2000*—Consequential**

### **Clause 283 False and misleading statements**

Omit the clause.