

Environmental Planning and Assessment and Electoral Legislation Amendment (Planning Panels and Enforcement) Act 2017 No 39

[2017-39]



New South Wales

Status Information

Currency of version

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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 and Electoral Legislation Amendment (Planning Panels and Enforcement) Act 2017 No 39



New South Wales

An Act to amend the *Environmental Planning and Assessment Act 1979* and instruments under that Act with respect to local and regional planning panels; and to amend the *Parliamentary Electorates and Elections Act 1912* and the *Local Government Act 1993* with respect to the enforcement of local government election requirements.

1 Name of Act

This Act is the *Environmental Planning and Assessment and Electoral Legislation Amendment (Planning Panels and Enforcement) Act 2017*.

2 Commencement

- (1) This Act commences on the date of assent to this Act, except as provided by subsection (2).
- (2) Schedule 1 [4] and [11] and Schedule 3 commence on a day or days to be appointed by proclamation.

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

[1]-[3] (Repealed)

[4] Section 23G Joint regional planning panels

Omit section 23G (2A) and (2B). Insert instead:

(2A) The functions of a consent authority may only be conferred on a regional panel in accordance with subsection (2) (a).

(2B) The functions of a consent authority in relation to any of the following development may not be conferred on a regional panel:

- (a) complying development,
- (b) development for which development consent is not required,
- (c) development that is State significant development,
- (d) development for which a person or body other than a council is the consent authority,
- (e) development within the area of the City of Sydney.

[5]-[10] (Repealed)

[11] Schedule 4A Development for which regional panels may be authorised to exercise consent authority functions of councils

Omit the Schedule.

[12], [13] (Repealed)

Schedule 2 (Repealed)

Schedule 3 Amendment of [State Environmental Planning Policy \(State and Regional Development\) 2011](#)

[1] Clause 4 Definitions

Omit "Schedule 4A to the Act" from the definition of *sensitive coastal location*.

Insert instead "Schedule 7".

[2] Clause 20 Development to which Part applies

Omit "Schedule 4A to the Act". Insert instead "Schedule 7".

[3] Clause 22 Staged development functions for development exceeding minimum capital investment values

Omit "Schedule 4A to the Act". Insert instead "Schedule 7".

[4] Schedule 7

Insert at the end of the Policy:

Schedule 7 Development for which regional panels may be authorised to exercise consent authority functions of

councils

1 Definitions

(1) In this Schedule:

capital investment value has the same meaning as in the regulations under the Act.

coastal zone has the same meaning as in the [Coastal Management Act 2016](#).

Crown development means development carried out by or on behalf of the Crown (within the meaning of Division 4 of Part 4 of the Act).

eco-tourist facility means a building or place used for tourist and visitor accommodation, function centres or environmental facilities that is located in a natural environment and is primarily used for activities involving education about, or the interpretation, cultural understanding or appreciation of, the natural environment.

metropolitan coastal zone means that part of the coastal zone between the northern boundary of the local government area of Newcastle City and the southern boundary of the local government area of Shellharbour City.

rail infrastructure facilities has the same meaning as it has in Division 15 of Part 3 of [State Environmental Planning Policy \(Infrastructure\) 2007](#).

road infrastructure facilities has the same meaning as it has in Division 17 of Part 3 of [State Environmental Planning Policy \(Infrastructure\) 2007](#).

sensitive coastal location means any of the following which occur within the coastal zone:

- (a) land within 100m above mean high water mark of the sea, a bay or an estuary,
- (b) a coastal lake,
- (c) a declared Ramsar wetland within the meaning of the [Environment Protection and Biodiversity Conservation Act 1999](#) of the Commonwealth,
- (d) a declared World Heritage property within the meaning of the [Environment Protection and Biodiversity Conservation Act 1999](#) of the Commonwealth,
- (e) land declared as a marine park or an aquatic reserve under the [Marine Estate Management Act 2014](#),
- (f) land within 100m of any of the following:

- (i) the water's edge of a coastal lake,
- (ii) land to which paragraph (c), (d) or (e) applies,
- (iii) land reserved under the *National Parks and Wildlife Act 1974*,
- (iv) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* applies,
- (g) residential land (within the meaning of *State Environmental Planning Policy No 26—Littoral Rainforests*) that is within a distance of 100m from the outer edge of the heavy black line on the series of maps held in the Department and marked "*State Environmental Planning Policy No 26—Littoral Rainforests (Amendment No 2)*".

subdivision of land does not include a boundary adjustment, a strata subdivision, or a community title subdivision associated with another development that has been approved.

- (2) Words and expressions in this Schedule have (subject to subclause (1)) the same meaning as they have in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

2 Excluded development

Development of a class or description otherwise set out in this Schedule is excluded from this Schedule if it is:

- (a) complying development, or
- (b) development for which development consent is not required, or
- (c) development that is State significant development, or
- (d) development for which a person or body other than a council is the consent authority, or
- (e) development within the area of the City of Sydney.

3 General development over \$30 million

Development that has a capital investment value of more than \$30 million.

4 Council related development over \$5 million

Development that has a capital investment value of more than \$5 million if:

- (a) a council for the area in which the development is to be carried out is the applicant for development consent, or

- (b) the council is the owner of any land on which the development is to be carried out, or
- (c) the development is to be carried out by the council, or
- (d) the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council).

5 Crown development over \$5 million

Crown development that has a capital investment value of more than \$5 million.

6 Private infrastructure and community facilities over \$5 million

Development that has a capital investment value of more than \$5 million for any of the following purposes:

- (a) air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities,
- (b) affordable housing, child care centres, community facilities, correctional centres, educational establishments, group homes, health services facilities or places of public worship.

7 Eco-tourist facilities over \$5 million

Development for the purpose of eco-tourist facilities that has a capital investment value of more than \$5 million.

8 Particular designated development

Development for the purposes of:

- (a) extractive industries, which meet the requirements for designated development under clause 19 of Schedule 3 to the *Environmental Planning and Assessment Regulation 2000*, or
- (b) marinas or other related land and water shoreline facilities, which meet the requirements for designated development under clause 23 of Schedule 3 to the *Environmental Planning and Assessment Regulation 2000*, or
- (c) waste management facilities or works, which meet the requirements for designated development under clause 32 of Schedule 3 to the *Environmental Planning and Assessment Regulation 2000*.

9 Coastal subdivision

Development within the coastal zone for the purposes of subdivision of the following kind:

- (a) subdivision of land for any purpose into more than 100 lots, if more than 100 of the lots will not be connected to an approved sewage treatment work or system,
- (b) subdivision of land for residential purposes into more than 100 lots, if the land:
 - (i) is not in the metropolitan coastal zone, or
 - (ii) is wholly or partly in a sensitive coastal location,
- (c) subdivision of land for rural-residential purposes into more than 25 lots, if the land:
 - (i) is not in the metropolitan coastal zone, or
 - (ii) is wholly or partly in a sensitive coastal location.

10 Development subject to delays in determination

Development that has a capital investment value of more than \$10 million but less than \$30 million:

- (a) for which a development application to the relevant council has been lodged but not determined within 120 days after the application was lodged, and
- (b) that is the subject of a written request to that council by the applicant for the application to be dealt with by a regional panel,

unless the chairperson of the regional panel concerned determines that the delay in determining the development application was caused by the applicant.

11 Development in council areas where development assessment unsatisfactory

- (1) Development within the area of a particular council for particular purposes designated by the Minister by order published on the NSW legislation website.
- (2) Such an order cannot be made unless the Minister is satisfied that the performance of the council concerned in dealing with development matters has not met applicable performance criteria.

Schedules 4-6 (Repealed)