



New South Wales

Environmental Planning and Assessment Amendment (Certification) Bill 2024

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Environmental Planning and Assessment Act 1979* to provide that the Minister for Planning and Public Spaces may certify development in certain circumstances and to validate certain certificates.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

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

Schedule 1[2] provides that the Minister for Planning and Public Spaces may be a certifier for development for which the Minister granted development consent.

Schedule 1[3] inserts proposed section 6.5A, which provides that a person prescribed by the regulations may issue a subdivision certificate in relation to development prescribed by the regulations.

Schedule 1[5] provides that the regulations may prescribe charges and fees payable in connection with a building information certificate and mechanisms to determine the charges and fees.

Schedule 1[7] validates certain occupation certificates.

Schedule 1[1] and [6] update outdated cross-references and **Schedule 1[4]** omits a redundant note.

Schedule 2 Amendment of other legislation

Schedule 2.1 amends the *Building and Development Certifiers Act 2018*, section 5 to clarify that the Minister administering the *Environmental Planning and Assessment Act 1979*, or a delegate of the Minister, is not required to be registered to carry out certification work.

Schedule 2.2 inserts a new section 53A into the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* to prescribe persons for the purposes of the proposed *Environmental Planning and Assessment Act 1979*, section 6.5A.

Schedule 2.3 omits the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*, clauses 18B, 18BA and 18C, which are provisions that allow certain port operators, Transport for New South Wales and the Minister, respectively, to issue subdivision certificates in certain circumstances and which expire on 1 December 2024.



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This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Environmental Planning and Assessment Amendment (Certification) Bill 2024

No. _____, 2024

A Bill for

An Act to amend the *Environmental Planning and Assessment Act 1979* to provide that the Minister for Planning and Public Spaces may certify development in certain circumstances; to validate certain certificates; and for related purposes.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.

Legislative Council

Clerk of the Parliaments

Tabling copy

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Environmental Planning and Assessment Amendment (Certification) Act 2024*.

3

4

2 Commencement

5

This Act commences on the date of assent to this Act.

6

Schedule 1	Amendment of Environmental Planning and Assessment Act 1979 No 203	1
		2
[1] Section 2.9 Functions of Commission		3
	Omit “Division 5 of Part 4AA of <i>State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007</i> ” from section 2.9(1), note.	4
		5
	Insert instead “ <i>State Environmental Planning Policy (Resources and Energy) 2021</i> , Chapter 2, Part 2.4, Division 5”.	6
		7
[2] Section 6.1 Definitions: Part 6		8
	Omit section 6.1, definition of <i>certifier</i> . Insert instead—	9
	<i>certifier</i> means—	10
	(a) a council or a registered certifier, or	11
	(b) for development for which the Minister granted development consent— the council, a registered certifier or the Minister.	12
		13
[3] Section 6.5A		14
	Insert after section 6.5—	15
6.5A Additional persons with function of issuing subdivision certificate		16
	(1) A person prescribed by the regulations has the function of issuing a subdivision certificate in relation to development prescribed by the regulations.	17
		18
		19
	(2) The person must, within 21 days of issuing a subdivision certificate, notify the Planning Secretary in writing that the person has issued the certificate.	20
		21
	(3) This part otherwise applies to the issuing of the certificate by the person in the same way the part applies to the issuing of a certificate by a certifier.	22
		23
[4] Section 6.23 Making of applications for building information certificates		24
	Omit section 6.23(2), note.	25
[5] Section 7.44 Charges and fees fixed by regulation		26
	Insert after section 7.44(1A)—	27
	(1B) The regulations may prescribe the following in relation to a building information certificate issued under Part 6, Division 6.7—	28
		29
	(a) charges and fees payable in connection with a certificate,	30
	(b) mechanisms to determine charges and fees payable in connection with a certificate.	31
		32
[6] Schedule 1 Community participation requirements		33
	Omit “ <i>State Environmental Planning Policy No 55—Remediation of Land</i> ” wherever occurring in clause 9A.	34
		35
	Insert instead “ <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> , Chapter 4”.	36
		37
[7] Schedule 8 Special provisions		38
	Insert at the end of the schedule, with appropriate part and clause numbering—	39

Part	Validation of certificates	1
	Validation of certain occupation certificates	2
	The following occupation certificates are validated, to the extent of any invalidity, and are taken to have been duly granted in accordance with this Act and otherwise in accordance with law on and from the date on which each certificate was issued—	3 4 5 6
	(a) Final Occupation Certificate 01-04-2020 issued on 3 June 2020 in relation to Development Application 9116 concerning Lot 118, DP 756697, Mount Tate Road, Guthega,	7 8 9
	(b) Final Occupation Certificate 02-06-2020 issued on 29 July 2020 in relation to Development Application 4-1-2006-i concerning Lot 30, DP 725492, 1400 Kosciuszko Road, Jindabyne,	10 11 12
	(c) Final Occupation Certificate 01-08-2022 issued on 18 May 2023 in relation to Development Application 10194 concerning ‘Bundara’, Mountain Rivers 4, Lot 630, DP 1118588, 5 Valley Close, Thredbo, and which erroneously identified the land as “Lot 530”,	13 14 15 16
	(d) Interim Occupation Certificate 01-10-21 issued on 28 October 2021 in relation to Development Application 95-133 concerning various lots on Harbour Boulevard, Shell Cove.	17 18 19
	Repeal of part	20
	This part is repealed on the day that is 6 months after the day on which the part commences.	21 22

Schedule 2	Amendment of other legislation	1
2.1	Building and Development Certifiers Act 2018 No 63	2
	Section 5 Certification work requires registration	3
	Omit section 5(2). Insert instead—	4
	(2) The following persons are not required to be registered to carry out certification work—	5
	(a) a local council,	6
	(b) the Minister administering the <i>Environmental Planning and Assessment Act 1979</i> or a delegate of the Minister.	7
2.2	Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021	10
	Section 53A	11
	Insert before section 54—	12
53A	Persons with function of issuing subdivision certificates—the Act, s 6.5A	13
	(1) The following persons have the function of issuing a subdivision certificate in relation to a subdivision carried out by or on behalf of the person—	14
	(a) Newcastle Port Corporation,	15
	(b) the port operator, within the meaning of the <i>Ports and Maritime Administration Act 1995</i> , of the following ports—	16
	(i) the Port of Botany Bay,	17
	(ii) the Port of Newcastle,	18
	(iii) Port Kembla,	19
	(c) Transport for NSW.	20
	(2) Transport for NSW also has the function of issuing a subdivision certificate in relation to development for which Transport for NSW granted development consent.	21
2.3	Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017	22
	Clauses 18B, 18BA and 18C	23
	Omit the clauses.	24