



Planning legislation changes **2017 in review**

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Department of Planning and Environment



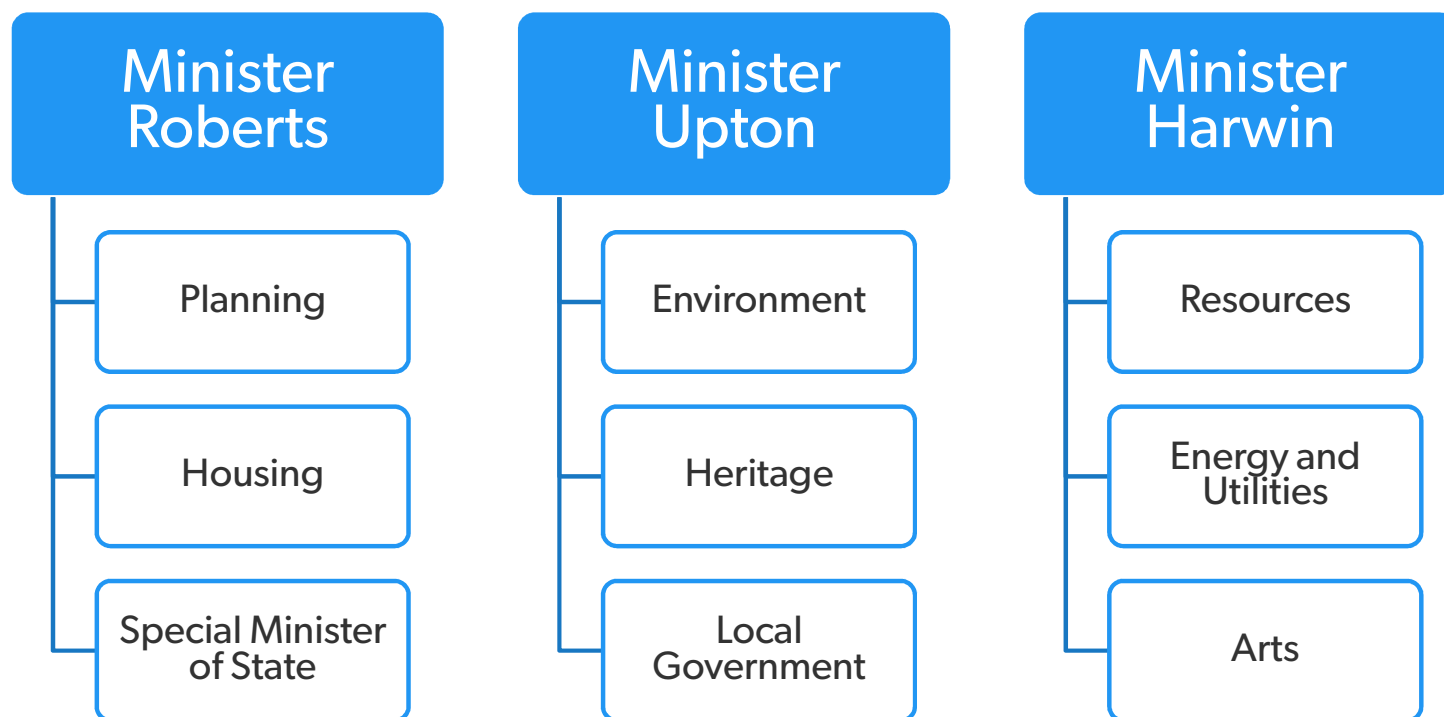
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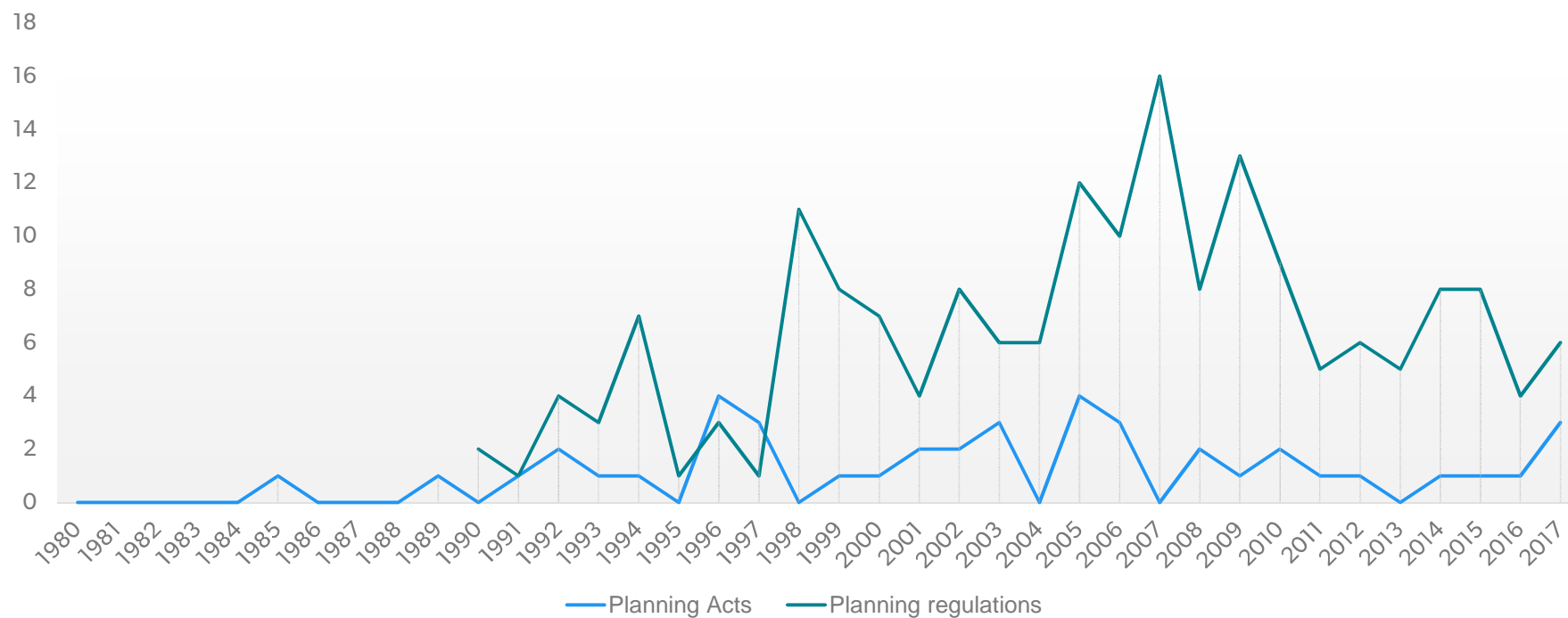
2017 in context ○



2017 Ministerial arrangements



Legislative change in context



Key legislative changes in 2017



Department of Planning and Environment

*Environmental Planning and
Assessment Amendment*
(Staged Development Applications)
Act 2017

Environmental Planning and Assessment Amendment (**Staged Development Applications**) Act 2017

Background

- Court of Appeal decision on 15 June 2017
(*Bay Simmer Investments Pty Ltd v The State of New South Wales*)
- Staged SSD application for Walsh Bay Arts Precinct declared invalid
- Concept proposals must be followed by at least two detailed proposals for separate parts of a development site
- Construction-related impacts cannot be considered as part of a later application setting out detailed proposals (even where the application for the first stage doesn't authorise work starting)

Amendments

- Division 2 of Part 4 of the EP&A Act replaced
- 'Staged development applications' replaced with 'Concept development applications'
- Plural and singular language resolved – concept development applications can be followed by a single application for development the whole development (s 83B(1))
- New provision allowing the impact of carrying out the development to be considered as part of later applications (s 83B(5))
- **Commenced 14 August 2017**



*Environmental Planning and Assessment
and Electoral Legislation Amendment
(**Planning Panels** and Enforcement)
Act 2017*

Environmental Planning and Assessment and Electoral Legislation Amendment (**Planning Panels** and Enforcement) Act 2017

- Development applications must be determined by local planning panel or council staff delegate, and not the council
- Ministerial direction will identify categories of development for panel/ staff determination
- Applies to all councils in Sydney and Wollongong
- Councils with existing panels must keep them in place and have until 1 March 2018 to meet the new composition and procedure requirements
- Other councils must establish panels by 1 March 2018 and can continue to determine development applications in the meantime
- **Commenced 14 August 2017** (except regionally significant development categories)



Strategic Direction

The council

- *Sets the vision and future direction of the area.*
- *Sets the rules about local development through the local environmental plan and development control plans.*
 - *Monitors local panel performance.*

Local planning panels – how members are appointed

Pool of experts

(approved by the Minister for Planning)

Must be expert in one of the following areas: planning, architecture, heritage, the environment, urban design, economics, traffic and transport, law, engineering, tourism or government and public administration.

Chair must have expertise in law or government and public administration.

Community representative

Represents the ward in which the proposed development would take place.

Chosen by Minister



Chair
(casting vote)

+

Chosen by council



**2 other experts
from the pool**



**1 community
representative**

=



**Local planning
panel meeting**

*Environmental Planning and
Assessment Amendment*
(Sydney Drinking Water Catchment)
Act 2017

Environmental Planning and Assessment Amendment (**Sydney Drinking Water Catchment**) Act 2017

Background

- Court of Appeal decision on 2 August 2017 (*4nature Incorporated v Centennial Springvale Pty Ltd*)
- Decision to grant SSD consent to the Springvale coal mine extension was not lawfully made
- PAC could not be satisfied that the carrying out of the development would have a neutral or beneficial effect on water quality
- Basis for the water quality test must be the actual water quality before and after the proposed development, not based on the currently approved impacts

Amendments

- SEPP can deal with the application of the water quality test to continuing development (s 34B(2A))
- Water quality test for continuing development to be based on currently approved development (i.e. impact cannot worsen from 'base case') (cl 11A, Catchment SEPP)
- Development consent for Springvale mine extension validated (as modified)
- **Commenced 13 October 2017**

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Where to next? ○

Environmental Planning and Assessment Amendment Bill 2017



The story so far

- Government announced improvements to the EP&A Act in May 2016
- 10 roundtables in 2016 to scope proposals
- Draft Bill and discussion paper publicly exhibited from 9 January 2017 to 31 March 2017
- Information sessions attended by 291 representatives from key stakeholder groups
- 467 submissions received
- Stakeholders provided broadly positive feedback (particularly on community participation, strategic planning and ensuring work is in line with approvals)

New and changed proposals

Changed proposals include

- Continued object to *promote the orderly and economic use and development of land*
- Local planning panels can be required outside Sydney and Wollongong by regulation
- Local strategic planning statements require ward councillor involvement and endorsement
- Not proceeding with restriction on modifications for works already carried out
- Enforceable undertakings can be negotiated and enforced by councils

New proposals include

- Object to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants
- Probity measures for local planning panels applied to regional planning panels
- Other minor process improvements



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