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Building and Related Works (Miscellaneous Amendments) Bill

Bill No. 19/2023.

Read the first time on 9 May 2023.

A BILL

i n t i t u l e d

An Act to amend certain Acts as regards the approval requirements for building works, to introduce in the Environmental Protection and Management Act 1999 and the Environmental Public Health Act 1987 approval requirements for building and related works, and to make consequential and related amendments to certain other Acts.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Building and Related Works (Miscellaneous Amendments) Act 2023 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

PART 1

AMENDMENT OF BUILDING CONTROL ACT 1989

Amendment of section 2

2. In the Building Control Act 1989, in section 2(1) —

(a) replace the definition of “amendment plans” with —

““amended plans” means plans showing any deviation from, or any amendment or addition to, any plans of building works approved or deemed approved under section 5(3) or 5AA(1);”;

(b) after the definition of “limited liability partnership”, insert —

““lodgment” means a lodgment of plans with the Commissioner of Building Control for the purpose of section 5AA;

“lodgment works” means building works which are prescribed as lodgment works in the building regulations;”;

(c) in the definition of “value”, replace paragraph (b) with —

“(b) for any other building works — the total cost to be expended in carrying out the building works (including the foundations, basements, structural frame, finishes and the installation of building services) estimated at the time of, and contained in —

(i) the application under section 5 for approval of the plans of the building works; or

(ii) the documents that are lodged together with the plans of the building works for the purpose of section 5AA, 5

as the case may be, including any goods and services tax payable in relation to the supply of the work;” 10

Amendment of section 5A

3. In the Building Control Act 1989, in section 5A(2) —

(a) after paragraph (a), insert —

“(aa) the names and prescribed particulars of —

(i) the appropriate qualified person whom the developer or builder of the building works has appointed to prepare the amended plans; and 15

(ii) where the building works comprise wholly or partly any geotechnical building works, the geotechnical engineer whom the developer or builder of the building works has appointed to prepare the amended plans relating to the geotechnical aspects of those geotechnical building works;” 20 25

(b) in paragraph (b)(ii), delete “and” at the end;

(c) in paragraph (c), replace the full-stop at the end with “; and”; and 30

(d) after paragraph (c), insert —

“(d) any other documents prescribed in the building regulations.”

New sections 5AA and 5AB

4. In the Building Control Act 1989, after section 5A, insert —

“Plans of lodgment works deemed approved

5 **5AA.**—(1) Despite section 5, the plans of any lodgment works are deemed approved by the Commissioner of Building Control, if all of the conditions in subsection (2) are satisfied.

(2) The conditions mentioned in subsection (1) are as follows:

10 (a) the developer of the lodgment works has lodged the plans of the lodgment works, together with the prescribed lodgment fee (if any) and information and documents prescribed under subsection (7)(b), with the Commissioner of Building Control;

15 (b) the plans comply with all prescribed requirements in this Act and the building regulations that are applicable to such plans;

(c) the developer has obtained a written acknowledgment of the lodgment from the Commissioner of Building Control.

20 (3) The Commissioner of Building Control may issue a written acknowledgment to the developer without checking the plans and design calculations of the lodgment works, on the basis of the information and documents prescribed under subsection (7)(b) that are submitted with the plans.

25 (4) To avoid doubt, the written acknowledgment is only evidence that the plans of the lodgment works have been lodged with the Commissioner of Building Control, and is not evidence that the plans comply with the prescribed requirements mentioned in subsection (2)(b).

30 (5) Without affecting subsection (3), if the Commissioner of Building Control is of the view that the plans of the lodgment works lodged with him or her do not comply with any prescribed requirement mentioned in subsection (2)(b), he or she may —

(a) refuse to accept any further lodgment of the plans of those lodgment works; and

(b) direct the developer of the lodgment works to apply under section 5 for approval of the plans instead.

(6) Nothing in this section prevents a developer from applying under section 5 for approval of the plans of any lodgment works, instead of lodging the plans of those works with the Commissioner of Building Control under this section.

(7) The building regulations may —

(a) prescribe as lodgment works any class of building works that have been assessed as suitable to be so prescribed because they are less complex building works; and

(b) prescribe the matters to be submitted with the plans for lodgment works (including any amended plans), including but not limited to —

(i) the lodgment fee, if any;

(ii) the information or documents to be submitted with the plans or amended plans;

(iii) the timelines for making the plans or amended plans; and

(iv) the requirements that the plans or amended plans of the lodgment works must comply with.

Deviations from lodged building plans

5AB.—(1) Where the plans of any lodgment works are deemed approved under section 5AA and the developer of the lodgment works intends to depart or deviate from the plans, then —

(a) if the departure or deviation results in the building works no longer being lodgment works, the developer must apply under section 5 for approval of the plans of the proposed departure or deviation; or

(b) if paragraph (a) does not apply, the developer must —

- (i) comply with the conditions in section 5AA(2) in relation to the amended plans, and section 5AA applies accordingly in relation to such plans; or
- (ii) apply under section 5 for approval of the plans of the proposed departure or deviation.

(2) The first deemed approval under section 5AA of the plans of any lodgment works ends and is superseded to the extent that the plans of the proposed departure or deviation relating to those lodgment works are approved or deemed approved by the Commissioner of Building Control under section 5 or 5AA, as the case may be.”.

Amendment of section 5B

5. In the Building Control Act 1989, in section 5B(1), after “section 5 or 5A”, insert “, or deemed approval under section 5AA,”.

Amendment of section 9

6. In the Building Control Act 1989, in section 9(1)(c) and (4)(a)(iii) and (b)(iii), after “approved”, insert “or deemed approved”.

Amendment of section 11

7. In the Building Control Act 1989, in section 11(1)(a)(iii) and (c) and (2)(a)(iii), after “approved”, insert “or deemed approved”.

Amendment of section 20

8. In the Building Control Act 1989, in section 20 —

(a) in subsection (1)(a), replace “approved by the Commissioner of Building Control under section 5 or 5A” with “approved or deemed approved by the Commissioner of Building Control under section 5, 5A or 5AA”;

(b) after subsection (1), insert —

“(1A) In proceedings for an offence under subsection (1) in relation to any lodgment works the plans of which —

(a) have been lodged with the Commissioner of Building Control for the purpose of section 5AA; but

(b) were not deemed approved because section 5AA(2)(b) was not complied with,

it is a defence to the charge for the accused to prove, on a balance of probabilities, that the accused reasonably believed that section 5AA(2)(b) had been complied with.”; and

(c) in subsections (3) and (4)(a) and (b), replace “approved by the Commissioner of Building Control under this Part” with “approved or deemed approved by the Commissioner of Building Control under section 5, 5A or 5AA”.

Amendment of section 22

9. In the Building Control Act 1989, in section 22, after subsection (1), insert —

“(1A) Where the Commissioner of Building Control has made a decision under section 5AA(5)(a) and (b), the developer concerned may appeal to the Minister against the decision within 14 days after being served with the notice of the decision.”.

New section 42AA

10. In the Building Control Act 1989, after section 42, insert —

“Use of electronic service for making applications, etc.

42AA.—(1) The Commissioner of Building Control may permit an application to or a lodgment with him or her under this Act to be made through an electronic service that is —

- (a) administered by a public authority to facilitate the sending of documents under this Act and any other written law in connection with building works; and
- (b) prescribed by the Minister by notification in the *Gazette*.

(2) Where a person uses the electronic service mentioned in subsection (1) to make an application to or a lodgment with the Commissioner of Building Control, the Commissioner of Building Control may serve on the person any acknowledgment, approval, certificate, direction, notice, permit or other document in connection with the application or lodgment, by sending it to the person's account with the electronic service.

(3) Service of a document on a person under subsection (2) takes effect at the time when an electronic record of the document reaches the person's account with the electronic service.

(4) This section applies despite anything to the contrary in this Act.

(5) In this section, "electronic record" has the meaning given by section 2(1) of the Electronic Transactions Act 2010."

Amendment of section 43A

11. In the Building Control Act 1989, in section 43A, after "from the Commissioner of Building Control", insert ", or for the purpose of the lodgment of any plans with the Commissioner of Building Control,".

Amendment of section 49

12. In the Building Control Act 1989, in section 49(2) —

(a) after paragraph (b), insert —

“(ba) the minimum or maximum number of qualified persons required or permitted to prepare the plans of any description of building works;”; and

(b) after paragraph (c), insert —

“(caa) the manner of lodgment of plans of lodgment works;”.

PART 2

AMENDMENT OF ENVIRONMENTAL PROTECTION AND MANAGEMENT ACT 1999

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Amendment of section 2

13. In the Environmental Protection and Management Act 1999, in section 2 —

(a) in the definition of “building works”, after “meaning given by”, insert “section 2(1) of”; and

10

(b) delete the definition of “qualified person”.

Amendment of Part 9 heading

14. In the Environmental Protection and Management Act 1999, in Part 9, in the Part heading, delete “AND INDUSTRIAL PLANT WORKS”.

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Amendment of section 32

15. In the Environmental Protection and Management Act 1999, in section 32(13), after “this Act”, insert “, but excludes any certificate issued by the Director-General under Part 9A”.

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Replacement of section 33 and new Part 9A

16. In the Environmental Protection and Management Act 1999, replace section 33 with —

“PART 9A

POLLUTION CONTROL REQUIREMENTS
FOR CONTROLLED WORKS**Interpretation of this Part**

5 **33.** In this Part —

“amended plans” means plans showing any deviation from, or any amendment or addition to, any plans of controlled works certified by the Director-General in a clearance certificate;

10 “building” has the meaning given by section 2(1) of the Building Control Act 1989;

“clearance certificate” means a certificate described in section 33B(1) and issued under section 33D(2)(a), and includes such certificate issued under section 33D(2)(a) as applied by section 33G;

15 “compliance certificate” means a certificate described in section 33I(1) and issued under section 33I(3)(a);

“controlled works” means any building works or industrial plant works;

20 “design certificate” means a certificate described in section 33E(1) and issued under section 33E(3)(a);

“developer”, in relation to any controlled works, means the person for whom or on whose behalf the controlled works are carried out;

25 “foundation” means that part of a building which is below or in direct contact with the ground, and through which the weight of the building and the loads acting on the building are transmitted to the ground, and includes any footing, raft or pile of the building;

30 “plans”, in relation to any controlled works —

(a) includes drawings, details, diagrams, digital representations generated from building information modelling, structural details and

calculations showing or relating to the works;
and

- (b) if prepared in electronic form, includes the medium in which the plans of the works have been stored;

5

“pollution control requirements” means the requirements set out in regulations made under section 77 and any prescribed codes of practice relating to the prevention, reduction or control of pollution of the environment from any completed buildings or industrial plants;

10

“site formation works” means any kind of site formation and includes earthworks for site stabilisation, the construction of foundations, basements, sub-structures, piling, underpinning, ground anchors, trenches or any other kind of ground works;

15

“temporary compliance certificate” means a certificate issued under section 33J(1).

Purpose of this Part

33A.—(1) The purpose of this Part is to establish a regulatory framework to prevent, reduce or control pollution of the environment from any completed buildings and industrial plants.

20

(2) This Part does not limit the operation of any other written law relating to the regulation of controlled works.

No controlled works without clearance certificate

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33B.—(1) Subject to sections 33C and 33E, a person must not commence or carry out, or permit or authorise the commencement or carrying out of any controlled works without a certificate (called in this Part a clearance certificate) issued by the Director-General under section 33D(2)(a) in respect of those controlled works.

30

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable —

- 5 (a) on the first conviction, to a fine not exceeding \$20,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part of a day during which the offence continues after conviction; and
- 10 (b) on a second or subsequent conviction, to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,000 for every day or part of a day during which the offence continues after that second or subsequent conviction.

Controlled works exempt from section 33B

15 **33C.**—(1) Regulations made under section 77 may exempt from section 33B any class of controlled works for any buildings or industrial plants that have been assessed by the Agency to pose a low risk of pollution to the environment, subject to such conditions as may be prescribed.

(2) The conditions mentioned in subsection (1) may include (but are not limited to) the following:

- 20 (a) that the plans of the controlled works must be lodged with the Director-General, in the form and manner and within the time specified by the Director-General, together with any other information or documents specified by the Director-General;
- 25 (b) that the person who prepared the plans of the controlled works must provide to the Director-General, in the form and manner and within the time specified by the Director-General, a declaration of the matters specified by the Director-General.

Application for clearance certificate

30 **33D.**—(1) An application for a clearance certificate for any controlled works must be made to the Director-General by the developer of the controlled works, in the form and manner specified by the Director-General, and must be accompanied by

the documents and information specified by the Director-General.

(2) Subject to section 33F, the Director-General may —

- (a) if the plans of the controlled works comply with the pollution control requirements (except any requirements that have been waived in the particular case by the Director-General), approve the application and issue a clearance certificate, with or without conditions; 5
- (b) give a written direction to the developer to comply with any requirement that the Director-General may specify for the purpose of ensuring that all or any of the plans submitted to him or her comply with specified pollution control requirements; or 10
- (c) disapprove the application. 15

(3) If a direction given by the Director-General under subsection (2)(b) is not complied with within the period specified in that direction, or such further period as may be allowed by the Director-General, the application is, at the end of that period, deemed to be disapproved by the Director-General. 20

Preliminary certification of building designs

33E.—(1) A developer of any controlled works to which section 33B applies who intends to carry out any part of those works (being site formation works or other prescribed works) before the issue of a clearance certificate, may apply to the Director-General for a preliminary certificate (called in this Part a design certificate). 25

(2) An application for a design certificate must be made to the Director-General, in the form and manner specified by the Director-General, and must be accompanied by — 30

- (a) information on the key design parameters of the controlled works specified by the Director-General; and

(b) any other documents and information specified by the Director-General.

(3) Subject to section 33F, the Director-General may —

5 (a) if the key design parameters of the controlled works comply with the pollution control requirements (except any requirements that have been waived in the particular case by the Director-General), approve the application and issue a design certificate, with or without conditions;

10 (b) give a written direction to the developer to comply with any requirement that the Director-General may specify for the purpose of ensuring that the key design parameters of the controlled works comply with specified pollution control requirements; or

15 (c) disapprove the application.

(4) If a direction given by the Director-General under subsection (3)(b) is not complied with within the period specified in that direction, or such further period as may be allowed by the Director-General, the application is, at the end of that period, deemed to be disapproved by the Director-General.

(5) A design certificate —

25 (a) is valid for such period as the Director-General may specify, which may be extended for such further period or periods as the Director-General may specify; and

(b) authorises the developer to carry out, during the period of its validity, such site formation works or other prescribed works as the Director-General may specify, without the need for a clearance certificate.

30 (6) Regulations made under section 77 may prescribe what are key design parameters of any controlled works for the purposes of this section.

Additional requirements for new ventures under Energy Conservation Act 2012

33F.—(1) Where any controlled works constitute a new venture under section 26A of the Energy Conservation Act 2012 for which an assessment mentioned in that section must be conducted and a report of the assessment approved by the Director-General under that section, the Director-General must not issue a design certificate or clearance certificate for the controlled works without first approving the report.

5

(2) Despite subsection (1), the Director-General may issue the applicant with a design certificate or clearance certificate subject to the condition (in addition to any other condition that may be imposed under section 33D(2)(a) or 33E(3)(a) (as the case may be)) that the applicant must submit the report mentioned in subsection (1) to the Director-General for his or her approval within the period specified by the Director-General.

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New clearance certificate required for amended plans of controlled works

33G.—(1) A developer of controlled works who intends to depart or deviate from any plans of those works for which a clearance certificate has been issued, must apply to the Director-General for another clearance certificate (called in this section a new certificate) for the amended plans showing the departure or deviation.

20

(2) Section 33D(2) and (3) applies (with the necessary modifications) to applications made under subsection (1) as it applies to applications made under section 33D(1).

25

(3) Where the Director-General has issued a new certificate pursuant to an application under subsection (1), the previous clearance certificate for the same controlled works is treated as cancelled.

30

Offence to deviate from plans certified in clearance certificate

5 **33H.**—(1) A person who, in carrying out any controlled works deviates, or permits or authorises the controlled works to deviate, in any material way from any plans of the controlled works for which a clearance certificate has been issued shall be guilty of an offence and shall be liable —

(a) on the first conviction to a fine not exceeding \$20,000; and

10 (b) on a second or subsequent conviction to a fine not exceeding \$50,000.

(2) In proceedings for an offence under subsection (1) —

15 (a) it is not necessary for the prosecution to prove that the accused knew that the controlled works deviate in any material way from the plans as so certified; but

(b) it is a defence to the charge for the accused to prove, on a balance of probabilities, that the accused did not know and could not reasonably have known of the plans.

Compliance certificate required upon completion of controlled works

20 **33I.**—(1) Upon the completion of any controlled works the plans (including any amended plans) of which have been certified in a clearance certificate, the developer of the controlled works must apply to the Director-General for a further certificate (called in this Part a compliance certificate) that the controlled works have been completed in accordance with —

(a) the plans as so certified; and

30 (b) the conditions (if any) in the clearance certificate.

(2) The Director-General may, on an application under subsection (1), require the developer or a registered inspector appointed by the developer to inspect the completed controlled

works and submit a report stating whether the controlled works have been completed in accordance with subsection (1)(a) and (b).

(3) The Director-General may, after considering the application under subsection (1) and any report submitted under subsection (2) —

(a) issue (subject to any conditions that he or she thinks fit) a compliance certificate if the controlled works have been completed in accordance with subsection (1)(a) and (b) (except for any non-compliance that has been waived in a particular case by the Director-General);

(b) give a written direction to the developer to comply within a specified period with any requirement that the Director-General may specify for the purpose of ensuring that the controlled works have been completed in accordance with subsection (1)(a) and (b); or

(c) disapprove the application.

(4) Without limiting subsection (3)(b), a direction may require specified work or alteration to be carried out at the expense of the developer, within a specified period and to the satisfaction of the Director-General.

(5) If a direction is not complied with within the period specified in that direction, or such further period as may be allowed by the Director-General, the application under subsection (1) is, at the end of that period, deemed to be disapproved by the Director-General.

Temporary compliance certificate

33J.—(1) Where an application has been made under section 33I for a compliance certificate for any controlled works, the Director-General may, before issuing the compliance certificate, issue a temporary compliance certificate in the first instance.

(2) A temporary compliance certificate is valid for such period as the Director-General may specify, and may be issued subject to conditions including (but not limited to) a condition that the developer of the controlled works comply with any written direction mentioned in section 33I(3)(b).

(3) For the purposes of subsection (2), section 33I(3)(b) and (4) applies (with the necessary modifications) to that subsection.

(4) A temporary compliance certificate is only prima facie evidence that the building that is the subject of the controlled works or in relation to which those works are done, has met the minimum pollution control requirements that the Director-General considers necessary for occupation, and is not evidence that the controlled works have been completed in accordance with section 33I(1)(a) and (b).

(5) The Director-General may amend, suspend or, in the event of a failure to comply with any condition imposed under subsection (2), revoke any temporary compliance certificate.

Consequences of providing false or misleading information, etc.

33K.—(1) Any person who, for the purpose of obtaining any certificate under this Part, provides to the Director-General any plan, declaration, document or other information that is false or misleading in a material particular, shall be guilty of an offence and shall be liable —

(a) on the first conviction to a fine not exceeding \$20,000; and

(b) on a second or subsequent conviction to a fine not exceeding \$50,000.

(2) The Director-General may at any time revoke any certificate issued under this Part (including, to avoid doubt, a temporary compliance certificate), if the Director-General is satisfied that any plan, declaration, document or other information provided to him or her for the purpose of

obtaining the certificate is false or misleading in a material particular.

(3) Where a clearance certificate has been revoked under subsection (2), any compliance certificate or temporary compliance certificate issued in respect of the same controlled works is also treated as revoked.

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Appeals under this Part

33L.—(1) Any person who is aggrieved by a decision of the Director-General (called in this section a relevant decision) —

(a) to disapprove an application under section 33D(2)(c), 33E(3)(c) or 33I(3)(c) (except, to avoid doubt, any such application that is deemed to be disapproved);

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(b) to impose conditions under section 33D(2)(a), 33E(3)(a), 33I(3)(a) or 33J(2) on the grant of a certificate; or

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(c) to revoke any certificate under section 33J(5) or 33K(2),

may, within 14 days after the person receives the relevant decision, apply to the Director-General to reconsider the relevant decision.

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(2) The application must be made by giving a written notice to the Director-General for reconsideration that states precisely the grounds of the person's objections to the relevant decision.

(3) After considering the written notice for reconsideration, the Director-General may do any of the following (called in this section the reconsidered decision):

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(a) confirm or rescind the relevant decision;

(b) substitute or vary the relevant decision, and make any decision that the Director-General is competent to make under the provisions mentioned in subsection (1)(a), (b) and (c).

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(4) The Director-General's reconsidered decision must be given in writing to the person that requested the reconsideration.

(5) If the person remains aggrieved by the reconsidered decision, the person may, within 14 days after the person receives the reconsidered decision, appeal in writing to the Minister.

5 (6) After considering the appeal, the Minister may —

(a) confirm or rescind the reconsidered decision; or

(b) substitute or vary the reconsidered decision, and make any decision that the Director-General is competent to make under the provisions mentioned in
10 subsection (1)(a), (b) and (c).

(7) The Minister's decision on the appeal is final.

(8) The Minister's decision on the appeal must be given to the appellant in writing.

(9) A relevant decision takes effect despite any request for a
15 reconsideration of the relevant decision, unless the Director-General otherwise directs; and a reconsidered decision takes effect despite any appeal against the reconsidered decision under subsection (5), unless the Minister otherwise directs.

20 **Designation of persons to hear appeals**

33M.—(1) The Minister may designate —

(a) any Minister of State, Senior Minister of State, Parliamentary Secretary or Senior Parliamentary Secretary, for his or her Ministry; or

25 (b) any public officer in his or her Ministry,

to hear and determine (in the Minister's place) any appeal under section 33L.

(2) Any reference in section 33L to the Minister includes a
30 reference to the Minister of State, Senior Minister of State, Parliamentary Secretary, Senior Parliamentary Secretary or public officer so designated under subsection (1).

Use of electronic service for making applications, etc.

33N.—(1) The Director-General may permit —

- (a) an application to him or her under this Part; or
- (b) a lodgment of any document or information with him or her for the purposes of this Part,

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to be made through the electronic service described in section 42AA of the Building Control Act 1989.

(2) Where a person uses the electronic service mentioned in subsection (1) to make an application to or a lodgment with the Director-General, the Director-General may serve on the person any acknowledgment, approval, certificate, direction, notice, permit or other document in connection with the application or lodgment, by sending it to the person’s account with the electronic service.

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(3) Service of a document on a person under subsection (2) takes effect at the time when an electronic record of the document reaches the person’s account with the electronic service.

15

(4) This section applies despite anything to the contrary in this Act.

20

(5) In this section, “electronic record” has the meaning given by section 2(1) of the Electronic Transactions Act 2010.”.

Amendment of Third Schedule

17. In the Environmental Protection and Management Act 1999, in the Third Schedule, after paragraph 22, insert —

25

“22A. The prescribing of matters relating to the plans of controlled works to be lodged or certified under Part 9A, including a requirement for the plans to be prepared by persons with prescribed qualifications and expertise.

22B. The prescribing of standards and codes of practice for the purposes of Part 9A, including by applying, adopting or incorporating by reference —

30

- (a) either wholly or partially;
- (b) with or without modification; or

(c) either specifically or by reference,

any matter contained in any standards or codes of practice, as in force or published at a particular time or as in force or published from time to time, relating to the prevention, reduction or control of pollution of the environment from completed buildings or industrial plants.

22C. The prescribing of matters necessary for the carrying out of section 33C, including requiring controlled works exempt from section 33B under regulations made under section 33C to be carried out in accordance with prescribed requirements.

22D. The prescribing of fees and charges for applications, lodgments and submission of documents for the purposes of Part 9A.”.

PART 3

AMENDMENT OF ENVIRONMENTAL PUBLIC HEALTH ACT 1987

New Part 5A

18. In the Environmental Public Health Act 1987, after section 46, insert —

“PART 5A

ENVIRONMENTAL PUBLIC HEALTH REQUIREMENTS FOR CONTROLLED WORKS

Interpretation of this Part

46A. In this Part —

“amended plans” means plans showing any deviation from, or any amendment or addition to, any plans of controlled works certified by the Director-General in a clearance certificate;

“building” has the meaning given by section 2(1) of the Building Control Act 1989;

“building works” has the meaning given by section 2(1) of the Building Control Act 1989;

“clearance certificate” means a certificate described in section 46C(1) and issued under section 46E(2)(a), and

includes such certificate issued under section 46E(2)(a) as applied by section 46G;

“compliance certificate” means a certificate described in section 46I(1) and issued under section 46I(3)(a);

“controlled facility” means any of the following:

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(a) an aerosol generating system;

(b) an aquatic facility;

(c) a disposal facility;

(d) a pneumatic waste conveyance system as defined in section 31E;

10

(e) a toilet within any publicly accessible premises;

(f) any other equipment or facility prescribed in regulations made under section 111;

“controlled works” means any building works, or works involving the provision, extension or alteration of any controlled facility;

15

“design certificate” means a certificate described in section 46F(1) and issued under section 46F(3)(a);

“developer”, in relation to any controlled works, means the person for whom or on whose behalf the controlled works are carried out;

20

“environmental public health requirements” means the requirements set out in regulations made under section 111 and any prescribed codes of practice relating to the prevention, reduction or control of the spread of any infectious disease in or from, or the reduction or removal of any risk of conditions injurious or dangerous to public health being created in, any completed buildings or controlled facilities;

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“foundation” means that part of a building which is below or in direct contact with the ground, and through which the weight of the building and the loads acting on the

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building are transmitted to the ground, and includes any footing, raft or pile of the building;

“plans”, in relation to any controlled works —

5 (a) includes drawings, details, diagrams, digital representations generated from building information modelling, structural details and calculations showing or relating to the works; and

10 (b) if prepared in electronic form, includes the medium in which the plans of the works have been stored;

“registered inspector” means a person whose name is registered under section 46O(1);

15 “site formation works” means any kind of site formation and includes earthworks for site stabilisation, the construction of foundations, basements, sub-structures, piling, underpinning, ground anchors, trenches or any other kind of ground works;

20 “temporary compliance certificate” means a certificate issued under section 46J(1).

Purpose of this Part

25 **46B.**—(1) The purpose of this Part is to establish a regulatory framework to prevent, reduce or control the spread of any infectious disease in or from, and to reduce or remove the risk of any conditions injurious or dangerous to public health being created in, any completed buildings and controlled facilities.

(2) This Part does not limit the operation of any other written law relating to the regulation of controlled works.

No controlled works without clearance certificate

30 **46C.**—(1) Subject to sections 46D and 46F, a person must not commence or carry out, or permit or authorise the commencement or carrying out of any controlled works without a certificate (called in this Part a clearance certificate)

issued by the Director-General under section 46E(2)(a) in respect of those controlled works.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable —

- (a) on the first conviction, to a fine not exceeding \$20,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part of a day during which the offence continues after conviction; and 5
- (b) on a second or subsequent conviction, to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,000 for every day or part of a day during which the offence continues after that second or subsequent conviction. 10

Controlled works exempt from section 46C

46D.—(1) Regulations made under section 111 may exempt from section 46C any class of controlled works for any buildings or controlled facilities that have been assessed by the Agency to pose a low risk of giving rise to the spread of any infectious disease or of harbouring conditions injurious or dangerous to public health, subject to such conditions as may be prescribed. 15 20

(2) The conditions mentioned in subsection (1) may include (but are not limited to) the following:

- (a) that the plans of the controlled works must be lodged with the Director-General, in the form and manner and within the time specified by the Director-General, together with any other information or documents specified by the Director-General; 25
- (b) that the person who prepared the plans of the controlled works must provide to the Director-General, in the form and manner and within the time specified by the Director-General, a declaration of the matters specified by the Director-General. 30

Application for clearance certificate

5 **46E.**—(1) An application for a clearance certificate for any controlled works must be made to the Director-General by the developer of the controlled works, in the form and manner specified by the Director-General, and must be accompanied by the documents and information specified by the Director-General.

(2) The Director-General may —

10 (a) if the plans of the controlled works comply with the environmental public health requirements (except any requirements that have been waived in the particular case by the Director-General), approve the application and issue a clearance certificate, with or without conditions;

15 (b) give a written direction to the developer to comply with any requirement that the Director-General may specify for the purpose of ensuring that all or any of the plans submitted to him or her comply with specified environmental public health requirements;
20 or

(c) disapprove the application.

(3) If a direction given by the Director-General under subsection (2)(b) is not complied with within the period specified in that direction, or such further period as may be allowed by the Director-General, the application is, at the end of that period, deemed to be disapproved by the Director-General.

Preliminary certification of building designs

30 **46F.**—(1) A developer of any controlled works to which section 46C applies who intends to carry out any part of those works (being site formation works or other prescribed works) before the issue of a clearance certificate, may apply to the Director-General for a preliminary certificate (called in this Part a design certificate).

(2) An application for a design certificate must be made to the Director-General, in the form and manner specified by the Director-General, and must be accompanied by —

- (a) information on the key design parameters of the controlled works specified by the Director-General; and
- (b) any other documents and information specified by the Director-General.

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(3) The Director-General may —

- (a) if the key design parameters of the controlled works comply with the environmental public health requirements (except any requirements that have been waived in the particular case by the Director-General), approve the application and issue a design certificate, with or without conditions;
- (b) give a written direction to the developer to comply with any requirement that the Director-General may specify for the purpose of ensuring that the key design parameters of the controlled works comply with specified environmental public health requirements; or
- (c) disapprove the application.

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(4) If a direction given by the Director-General under subsection (3)(b) is not complied with within the period specified in that direction, or such further period as may be allowed by the Director-General, the application is, at the end of that period, deemed to be disapproved by the Director-General.

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(5) A design certificate —

- (a) is valid for such period as the Director-General may specify, which may be extended for such further period or periods as the Director-General may specify; and
- (b) authorises the developer to carry out, during the period of its validity, such site formation works or

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other prescribed works as the Director-General may specify, without the need for a clearance certificate.

(6) Regulations made under section 111 may prescribe what are key design parameters of any controlled works for the purposes of this section.

New clearance certificate required for amended plans of controlled works

46G.—(1) A developer of controlled works who intends to depart or deviate from any plans of those works for which a clearance certificate has been issued, must apply to the Director-General for another clearance certificate (called in this section a new certificate) for the amended plans showing the departure or deviation.

(2) Section 46E(2) and (3) applies (with the necessary modifications) to applications made under subsection (1) as it applies to applications made under section 46E(1).

(3) Where the Director-General has issued a new certificate pursuant to an application under subsection (1), the previous clearance certificate for the same controlled works is treated as cancelled.

Offence to deviate from plans certified in clearance certificate

46H.—(1) A person who, in carrying out any controlled works deviates, or permits or authorises the controlled works to deviate, in any material way from any plans of the controlled works for which a clearance certificate has been issued shall be guilty of an offence and shall be liable —

(a) on the first conviction to a fine not exceeding \$20,000; and

(b) on a second or subsequent conviction to a fine not exceeding \$50,000.

(2) In proceedings for an offence under subsection (1) —

- (a) it is not necessary for the prosecution to prove that the accused knew that the controlled works deviate in any material way from the plans as so certified; but
- (b) it is a defence to the charge for the accused to prove, on a balance of probabilities, that the accused did not know and could not reasonably have known of the plans.

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Compliance certificate required upon completion of controlled works

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46I.—(1) Upon the completion of any controlled works the plans (including any amended plans) of which have been certified in a clearance certificate, the developer of the controlled works must apply to the Director-General for a further certificate (called in this Part a compliance certificate) that the controlled works have been completed in accordance with —

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- (a) the plans as so certified; and
- (b) the conditions (if any) in the clearance certificate.

(2) The Director-General may, on an application under subsection (1), require the developer or a registered inspector appointed by the developer to inspect the completed controlled works and submit a report stating whether the controlled works have been completed in accordance with subsection (1)(a) and (b).

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(3) The Director-General may, after considering the application under subsection (1) and any report submitted under subsection (2) —

- (a) issue (subject to any conditions that he or she thinks fit) a compliance certificate if the controlled works have been completed in accordance with subsection (1)(a) and (b) (except for any non-compliance that has been waived in a particular case by the Director-General);

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(b) give a written direction to the developer to comply within a specified period with any requirement that the Director-General may specify for the purpose of ensuring that the controlled works have been completed in accordance with subsection (1)(a) and (b); or

(c) disapprove the application.

(4) Without limiting subsection (3)(b), a direction may require specified work or alteration to be carried out at the expense of the developer, within a specified period and to the satisfaction of the Director-General.

(5) If a direction is not complied with within the period specified in that direction, or such further period as may be extended by the Director-General, the application under subsection (1) is, at the end of that period, deemed to be disapproved by the Director-General.

Temporary compliance certificate

46J.—(1) Where an application has been made under section 46I for a compliance certificate for any controlled works, the Director-General may, before issuing the compliance certificate, issue a temporary compliance certificate in the first instance.

(2) A temporary compliance certificate is valid for such period as the Director-General may specify, and may be issued subject to conditions including (but not limited to) a condition that the developer of the controlled works comply with any written direction mentioned in section 46I(3)(b).

(3) For the purposes of subsection (2), section 46I(3)(b) and (4) applies (with the necessary modifications) to that subsection.

(4) A temporary compliance certificate is only prima facie evidence that the building that is the subject of the controlled works or in relation to which those works are done, has met the minimum environmental public health requirements that the Director-General considers necessary for occupation, and is not

evidence that the controlled works have been completed in accordance with section 46I(1)(a) and (b).

(5) The Director-General may amend, suspend or, in the event of a failure to comply with any condition imposed under subsection (2), revoke any temporary compliance certificate. 5

Consequences of providing false or misleading information, etc.

46K.—(1) Any person who, for the purpose of obtaining any certificate under this Part, provides to the Director-General any plan, declaration, document or other information that is false or misleading in a material particular, shall be guilty of an offence and shall be liable — 10

(a) on the first conviction to a fine not exceeding \$20,000; and

(b) on a second or subsequent conviction to a fine not exceeding \$50,000. 15

(2) The Director-General may at any time revoke any certificate issued under this Part (including, to avoid doubt, a temporary compliance certificate), if the Director-General is satisfied that any plan, declaration, document or other information provided to him or her for the purpose of obtaining the certificate is false or misleading in a material particular. 20

(3) Where a clearance certificate has been revoked under subsection (2), any compliance certificate or temporary compliance certificate issued in respect of the same controlled works is also treated as revoked. 25

Appeals under this Part

46L.—(1) Any person who is aggrieved by a decision of the Director-General (called in this section a relevant decision) — 30

(a) to disapprove an application under section 46E(2)(c), 46F(3)(c) or 46I(3)(c) (except, to avoid doubt, any such application that is deemed to be disapproved);

(b) to impose conditions under section 46E(2)(a), 46F(3)(a), 46I(3)(a) or 46J(2) on the grant of a certificate; or

(c) to revoke any certificate under section 46J(5) or 46K(2),

5 may, within 14 days after the person receives the relevant decision, apply to the Director-General to reconsider the relevant decision.

10 (2) The application must be made by giving a written notice to the Director-General for reconsideration that states precisely the grounds of the person's objections to the relevant decision.

(3) After considering the written notice for reconsideration, the Director-General may do any of the following (called in this section the reconsidered decision):

15 (a) confirm or rescind the relevant decision;

(b) substitute or vary the relevant decision, and make any decision that the Director-General is competent to make under the provisions mentioned in subsection (1)(a), (b) and (c).

20 (4) The Director-General's reconsidered decision must be given in writing to the person that requested the reconsideration.

25 (5) If the person remains aggrieved by the reconsidered decision, the person may, within 14 days after the person receives the reconsidered decision, appeal in writing to the Minister.

(6) After considering the appeal, the Minister may —

(a) confirm or rescind the reconsidered decision; or

30 (b) substitute or vary the reconsidered decision, and make any decision that the Director-General is competent to make under the provisions mentioned in subsection (1)(a), (b) and (c).

(7) The Minister's decision on the appeal is final.

(8) The Minister’s decision on the appeal must be given to the appellant in writing.

(9) A relevant decision takes effect despite any request for a reconsideration of the relevant decision, unless the Director-General otherwise directs; and a reconsidered decision takes effect despite any appeal against the reconsidered decision under subsection (5), unless the Minister otherwise directs.

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Designation of persons to hear appeals

46M.—(1) The Minister may designate —

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- (a) any Minister of State, Senior Minister of State, Parliamentary Secretary or Senior Parliamentary Secretary, for his or her Ministry; or
- (b) any public officer in his or her Ministry,

to hear and determine (in the Minister’s place) any appeal under section 46L.

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(2) Any reference in section 46L to the Minister includes a reference to the Minister of State, Senior Minister of State, Parliamentary Secretary, Senior Parliamentary Secretary or public officer so designated under subsection (1).

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Use of electronic service for making applications, etc.

46N.—(1) The Director-General may permit —

- (a) an application to him or her under this Part; or
- (b) a lodgment of any document or information with him or her for the purposes of this Part,

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to be made through the electronic service described in section 42AA of the Building Control Act 1989.

(2) Where a person uses the electronic service mentioned in subsection (1) to make an application to or a lodgment with the Director-General, the Director-General may serve on the person any acknowledgment, approval, certificate, direction, notice, permit or other document in connection with the application or

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lodgment, by sending it to the person's account with the electronic service.

(3) Service of a document on a person under subsection (2) takes effect at the time when an electronic record of the document reaches the person's account with the electronic service.

(4) This section applies despite anything to the contrary in this Act.

(5) In this section, "electronic record" has the meaning given by section 2(1) of the Electronic Transactions Act 2010.

Registration, appointment and duties of registered inspectors

46O.—(1) The Director-General must keep and maintain a register in which must be entered the names and prescribed particulars of all persons registered under this section as registered inspectors.

(2) Regulations made under section 111 may provide for —

- (a) the manner and form in which the register is to be kept and open for inspection;
- (b) the manner of making applications by persons to be registered inspectors;
- (c) the qualifications of registered inspectors and their appointment;
- (d) the duties and responsibilities of registered inspectors; and
- (e) the circumstances in which the registration may be cancelled.”.

Amendment of section 99

19. In the Environmental Public Health Act 1987, in section 99(19), after “does not include”, insert “a certificate issued by the Director-General under Part 5A or”.

Amendment of Third Schedule

20. In the Environmental Public Health Act 1987, in the Third Schedule, after paragraph 4, insert —

“4A. The prescribing of matters relating to the plans of controlled works to be lodged or certified under Part 5A, including a requirement for the plans to be prepared by persons with prescribed qualifications and expertise. 5

4B. The prescribing of standards and codes of practice for the purposes of Part 5A, including by applying, adopting or incorporating by reference —

(a) either wholly or partially;

(b) with or without modification; or 10

(c) either specifically or by reference,

any matter contained in any standards or codes of practice, as in force or published at a particular time or as in force or published from time to time, relating to the prevention, reduction or control of the spread of any infectious disease in or from, or the reduction or removal of any risk of conditions injurious or dangerous to public health being created in, completed buildings or controlled facilities. 15

4C. The prescribing of matters necessary for the carrying out of section 46D, including requiring controlled works exempt from section 46C under regulations made under section 46D to be carried out in accordance with prescribed requirements. 20

4D. The prescribing of fees and charges for applications, lodgments and submission of documents for the purposes of Part 5A.”.

PART 4

AMENDMENT OF FIRE SAFETY ACT 1993 25

New section 99A

21. In the Fire Safety Act 1993, after section 99, insert —

“Use of electronic service for making applications under Part 4

99A.—(1) The Commissioner may permit an application to him or her under Part 4 to be made through the electronic service described in section 42AA of the Building Control Act 1989. 30

(2) Where a person uses the electronic service mentioned in subsection (1) to make an application to the Commissioner, the Commissioner may serve on the person any acknowledgment, approval, certificate, direction, notice, permit or other document in connection with the application, by sending it to the person's account with the electronic service.

(3) Service of a document on a person under subsection (2) takes effect at the time when an electronic record of the document reaches the person's account with the electronic service.

(4) This section applies despite anything to the contrary in this Act.

(5) In this section, "electronic record" has the meaning given by section 2(1) of the Electronic Transactions Act 2010."

PART 5

AMENDMENT OF PARKS AND TREES ACT 2005

New section 59A

22. In the Parks and Trees Act 2005, after section 59, insert —

“Use of electronic service for making applications in connection with building works

59A.—(1) The Commissioner may permit an application to him or her under this Act, for any matter connected with any building works, to be made through the electronic service described in section 42AA of the Building Control Act 1989.

(2) Where a person uses the electronic service mentioned in subsection (1) to make an application to the Commissioner, the Commissioner may serve on the person any acknowledgment, approval, certificate, direction, notice, permit or other document in connection with the application, by sending it to the person's account with the electronic service.

(3) Service of a document on a person under subsection (2) takes effect at the time when an electronic record of the

document reaches the person’s account with the electronic service.

(4) This section applies despite anything to the contrary in this Act.

(5) In this section, “electronic record” has the meaning given by section 2(1) of the Electronic Transactions Act 2010.”. 5

PART 6

AMENDMENT OF PLANNING ACT 1998

Amendment of section 2

23. In the Planning Act 1998, in section 2, in the definition of “provisional permission”, after “section 17(1)”, insert “or 17A(2)”. 10

Amendment of section 17

24. In the Planning Act 1998, in section 17 —

(a) in subsection (4), replace “final permission” with “a written permission”; and 15

(b) in subsection (5), replace “final permission” with “written permission”.

New section 17A

25. In the Planning Act 1998, after section 17, insert —

“Application for provisional permission” 20

17A.—(1) An applicant for planning permission or conservation permission who desires to commence preliminary works before the grant of the permission, may apply in the first instance for that permission as a provisional permission. 25

(2) Subject to any rules, the competent authority may —

(a) grant the provisional permission, either unconditionally or subject to any conditions the competent authority considers fit; or

(b) refuse to grant the provisional permission.

(3) Where, subsequent to the grant of provisional permission, an application for planning permission or conservation permission is made during the validity period of the provisional permission, the application is to be determined on the basis of the further details supplied on that subsequent application.

(4) For the purposes of this section —

(a) section 13 applies with the necessary modifications to an application for provisional permission as it applies to an application for written permission, except that a different form and manner may be prescribed for the making of an application for provisional permission;

(b) sections 14, 14A, 21 and 22 apply with the necessary modifications to an application for provisional permission as they apply to an application for written permission;

(c) sections 14(5), 14A, 19, 21 and 22 apply with the necessary modifications to a grant of provisional permission under this section, as they apply to a grant of written permission;

(d) section 17(2) and (3) applies to a grant of provisional permission under this section as it applies to a grant of provisional permission under section 17(1); and

(e) to avoid doubt, section 17(4) does not apply to a grant of provisional permission under this section.”.

Amendment of section 20

26. In the Planning Act 1998, in section 20(1) —

(a) in paragraph (a), insert “or” at the end; and

(b) delete paragraph (b).

New section 52A

27. In the Planning Act 1998, after section 52, insert —

“Use of electronic service for making applications, etc.

52A.—(1) The competent authority may permit an application, lodgment or submission to or with the competent authority under this Act to be made through the electronic service described in section 42AA of the Building Control Act 1989. 5

(2) Where a person uses the electronic service mentioned in subsection (1) to make an application, lodgment or submission to or with the competent authority, the competent authority may serve on the person any acknowledgment, approval, certificate, direction, notice, permit or other document in connection with the application, lodgment or submission, by sending it to the person’s account with the electronic service. 10

(3) Service of a document on a person under subsection (2) takes effect at the time when an electronic record of the document reaches the person’s account with the electronic service. 15

(4) This section applies despite anything to the contrary in this Act.

(5) In this section, “electronic record” has the meaning given by section 2(1) of the Electronic Transactions Act 2010.”. 20

PART 7

AMENDMENT OF WILDLIFE ACT 1965

New section 19A

28. In the Wildlife Act 1965, after section 19, insert — 25

“Service of direction under section 10 by electronic service

19A.—(1) This section applies where a person —

(a) applies to the Commissioner of Building Control appointed under section 3(1) of the Building Control Act 1989 (called in this section the Commissioner) for approval under section 5 or 5A of that Act of any plans or amended plans of any building works; or 30

(b) lodges with the Commissioner any such plans or amended plans under section 5AA of that Act, using the electronic service described in section 42AA of that Act.

5 (2) The Commissioner may inform the Director-General of an application or lodgment mentioned in subsection (1).

(3) The Director-General may give a direction under section 10(1) to the person mentioned in subsection (1) by sending it to the person's account with the electronic service mentioned in subsection (1).

10 (4) This section applies despite anything to the contrary in this Act.

(5) In this section, "amended plans", "building works" and "plans" have the meanings given by section 2(1) of the Building Control Act 1989."

PART 8

CONSEQUENTIAL AMENDMENTS AND SAVING AND TRANSITIONAL PROVISIONS

Consequential amendments to Amusement Rides Safety Act 2011

20 **29.** In the Amusement Rides Safety Act 2011 —

(a) in sections 6(2)(b) and 24(2)(b), after "section 5", insert "or 5A";

25 (b) in sections 6(2)(b) and 24(2)(b), after "connected", insert " , or (as the case may be) ensure that the conditions in section 5AA(2) of that Act are satisfied in relation to such plans"; and

30 (c) in sections 6(4)(c) and 24(4)(c), replace "approved by the Commissioner of Building Control under section 5 of the Building Control Act 1989" with "approved or deemed approved by the Commissioner of Building Control under section 5, 5A or 5AA of the Building Control Act 1989".

Consequential amendments to Building Maintenance and Strata Management Act 2004

30. In the Building Maintenance and Strata Management Act 2004 —

- (a) in section 21(b), after “approved”, insert “or deemed approved”; and 5
- (b) in section 26(4)(a)(i) and (ii), after “filed”, insert “or lodged”.

Consequential amendments to Energy Conservation Act 2012

31. In the Energy Conservation Act 2012, in section 26A(1) — 10

- (a) after “clearance certificate”, insert “or design certificate”; and
- (b) replace “section 33” with “section 33D or 33E”.

Consequential amendments to Land Betterment Charge Act 2021

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32. In the Land Betterment Charge Act 2021 —

- (a) in section 2(1), in the definition of “provisional permission”, after “section 17(1)”, insert “or 17A(2)”; 15
- (b) in sections 8(3)(d) and (e) and 26(2)(d), replace “final permission” with “written permission”; and 20
- (c) in sections 8(3)(d) and (e) and 26(2)(d), replace “section 17(4)” with “section 14 or 17(4) (as the case may be)”.

Saving and transitional provisions

33.—(1) Part 9A of the Environmental Protection and Management Act 1999 does not apply to any industrial plant works for which a clearance certificate under section 33 of that Act as in force immediately before the date of commencement of sections 16 and 31 (called in this section the commencement date), has been issued before that date. 25

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(2) Section 33 of the Environmental Protection and Management Act 1999 and section 26A of the Energy Conservation Act 2012, as in force immediately before the commencement date, continue to apply to the industrial plant works mentioned in subsection (1).

- 5 (3) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

EXPLANATORY STATEMENT

This Bill seeks —

- (a) to amend the Building Control Act 1989 to enable the plans of certain types of building works to be deemed approved under that Act under certain conditions;
- (b) to amend the Environmental Protection and Management Act 1999 and the Environmental Public Health Act 1987 to introduce approval requirements for plans for building and related works, to ensure that they meet pollution control and environmental public health requirements, respectively;
- (c) to amend the Planning Act 1998 to enable applications to be made for a provisional permission;
- (d) to amend the abovementioned Acts and other Acts to enable certain transactions connected with building works with the public authorities concerned to be carried out using a prescribed electronic service; and
- (e) to make consequential and related amendments to various Acts.

The amendments provide relevant public authorities with powers to process approvals for building and related works, including through the new CORENET X platform. CORENET X will be launched progressively, and new features and projects will be onboarded in phases to ensure a smooth transition.

Clause 1 relates to the short title and commencement.

PART 1

AMENDMENT OF
BUILDING CONTROL ACT 1989

Clause 2 amends section 2(1) to update certain definitions in light of the new section 5AA, which deems plans of certain prescribed building works as approved by the Commissioner of Building Control (called the Commissioner), if (among other conditions) those plans have been lodged with the Commissioner.

Clause 3 amends section 5A to introduce a new subsection (2)(*aa*) and (*d*), to align the requirements for an application for approval of amended building plans under that section with the requirements for an application for approval of original building plans under section 5.

Clause 4 inserts 2 new sections to establish a new lodgment framework for certain classes of building works to be prescribed in regulations (called lodgment works). Plans of lodgment works are deemed approved by the Commissioner for the purposes of the Act if certain conditions are satisfied.

The new section 5AA allows developers of lodgment works to lodge the plans of those works with the Commissioner as an alternative to applying under section 5 for approval of the plans. The lodged plans are deemed approved by the Commissioner if they comply with certain requirements in the regulations (called building regulation requirements) and the Commissioner has issued a written acknowledgment of the lodgment. As there is no manual approval process, the developer has to ensure that the lodged plans are compliant with the building regulation requirements. A developer who lodges non-compliant plans may be required by the Commissioner to apply for approval of the plans under section 5, instead of lodging the plans again with the Commissioner.

The new section 5AB requires a developer to obtain approval for any departure or deviation from plans of lodgment works that are deemed approved under the new section 5AA. The developer can do so by lodging the plans of the proposed departure or deviation under the new section 5AA and complying with the other conditions for the deemed approval of the amended plans, or applying for approval of those plans for the proposed departure or deviation under section 5. If the proposed departure or deviation results in the building works no longer being lodgment works, the developer must apply under section 5 for approval of the plans of the proposed departure or deviation.

Clause 5 amends section 5B(1) to provide for the automatic lapsing of a deemed approval of the plans of lodgment works under certain circumstances.

Clause 6 amends section 9 to apply certain duties of a qualified person to plans that are deemed approved under the new section 5AA. These include the duty of a qualified person appointed to prepare plans of any building works to supply a copy of the deemed approved plans to the site supervisor and other persons, and the duty

of a qualified person appointed to supervise the carrying out of any building works to take reasonable steps and exercise due diligence when carrying out his or her duties to ensure that the works are carried out in accordance with the deemed approved plans.

Clause 7 amends section 11 to apply certain duties of a builder to plans that are deemed approved under the new section 5AA. These include the duties of a builder undertaking building works to ensure that the works are carried out in accordance with deemed approved plans, and to keep those plans at the premises on which the works are carried out and to make them available on request by a specialist builder, and the duty of a specialist builder undertaking specialist building works to ensure that the works are carried out in accordance with the deemed approved plans.

Clause 8 amends section 20 for the following purposes:

- (a) to make it an offence for a person to commence or carry out, or to permit or authorise the commencement or carrying out of, any building works the plans of which have not been approved or deemed approved by the Commissioner. However, it is a defence in the case of any lodgment works the plans of which have been lodged under the new section 5AA but which do not comply with a building regulation requirement, that the accused reasonably believed that such requirement had been complied with;
- (b) to make it an offence for a person who, when carrying out any lodgment works, deviated in a material way from the plans for those works that are deemed approved, or permitted or authorised such deviation.

Clause 9 amends section 22 to allow an appeal to be made to the Minister against a decision of the Commissioner requiring a developer who lodges non-compliant plans to apply for approval of the plans under section 5, instead of lodging the plans again with the Commissioner.

Clause 10 inserts a new section 42AA to empower the Commissioner to permit an application or lodgment under the Act to be made using a prescribed electronic service administered by a public authority to facilitate the sending of documents in connection with building works under the Act and other written laws.

Clause 11 amends section 43A to expand the offence of making or producing false documents to the Commissioner, to include documents being made or produced for the purpose of lodgment with the Commissioner under the new section 5AA.

Clause 12 amends section 49 to enable certain matters to be prescribed in regulations, including the minimum or maximum number of qualified persons

required or permitted to prepare the plans of any description of building works, and the manner of lodging plans under the new section 5AA.

PART 2

AMENDMENT OF ENVIRONMENTAL PROTECTION AND MANAGEMENT ACT 1999

Clause 13 amends section 2 to make more precise the definition of “building works” and to delete the definition of “qualified person” as it is no longer needed with the repeal of section 33.

Clause 14 amends the heading of Part 9 in light of the repeal of section 33, the substance of which is dealt with under the new Part 9A, as inserted by clause 16.

Clause 15 amends section 32 to provide that the provisions on licences in that section do not apply to certificates issued under the new Part 9A, as inserted by clause 16.

Clause 16 replaces section 33 with a new Part 9A consisting of 15 new sections. The subject of section 33 is dealt with under the new Part.

The new Part 9A establishes a framework for the Director-General of Environmental Protection (called the Director-General) to regulate building works and industrial plant works (collectively called controlled works), to ensure that the plans for such works comply with pollution control requirements. This framework is an expansion of the existing section 33, which subjects only industrial plant works to pollution control requirements.

The new section 33 sets out various definitions used in the new Part 9A.

The new section 33A sets out the purpose of the new Part 9A. It also clarifies that the new Part 9A does not limit the operation of other written laws relating to the regulation of controlled works, for example, the Building Control Act 1989.

The new section 33B prohibits the carrying out of any controlled works without a clearance certificate issued by the Director-General.

The new section 33C empowers the making of regulations to exempt from the new section 33B (with or without conditions) any class of controlled works for any buildings or industrial plants that have been assessed to pose a low risk of pollution to the environment. The conditions may include requiring plans of exempt works to be lodged with the Director-General.

The new section 33D sets out the matters governing an application for a clearance certificate, which the Director-General may issue if the plans of the controlled works comply with pollution control requirements.

The new section 33E creates an optional process in respect of controlled works. The developer of the controlled works may, if the developer intends to carry out

any site formation works or other prescribed works, apply to the Director-General for early clearance of the key design parameters of the controlled works. If the key design parameters comply with pollution control requirements, the Director-General may issue a design certificate authorising the developer to carry out the site formation works or other prescribed works, pending any application for or issuance of a clearance certificate.

The new section 33F provides that the issuance of a design certificate or clearance certificate is subject to the requirement under section 26A of the Energy Conservation Act 2012 (if it applies) that the Director-General must approve the report of the energy efficiency opportunities assessment to be conducted under that section.

The new section 33G requires a developer of controlled works to apply for a new clearance certificate under the new section 33D if the developer intends to depart or deviate from any plans of those works for which a clearance certificate was previously issued. This provision is similar to the requirement in section 5A of the Building Control Act 1989.

The new section 33H makes it an offence for a person to carry out any controlled works that deviate from the plans of those works for which a clearance certificate has been issued. This provision is similar to section 20(3) and (4) of the Building Control Act 1989.

The new section 33I requires a developer who has obtained a clearance certificate for the plans of controlled works to apply to the Director-General for a compliance certificate upon the completion of the works, to certify that the works have been completed in accordance with the plans and the conditions (if any) in the clearance certificate.

The new section 33J empowers the Director-General to issue a temporary compliance certificate in the first instance where an application for a compliance certificate is made in respect of completed controlled works. The Director-General may issue the temporary compliance certificate if he or she considers that the building that is the subject of the works or in relation to which the works are done has substantially complied with pollution control requirements such that it is suitable for occupation. However, the actual occupation of the building would still be subject to the issuance of a temporary occupation permit or certificate of statutory completion under the Building Control Act 1989.

The new section 33K imposes penalties for providing false or misleading information for the purpose of obtaining any certificate under the new Part 9A. It also empowers the Director-General to revoke any certificate if he or she is satisfied that false or misleading information has been provided for the purpose of obtaining the certificate.

The new section 33L creates a procedure for appeals to the Minister against decisions of the Director-General under the new Part 9A to disapprove an

application, impose conditions on the grant of a certificate, or revoke any certificate.

The new section 33M empowers the Minister to designate a political office-holder or a public officer, in his or her Ministry, to hear and determine any appeals under the new section 33L in the Minister's place.

The new section 33N empowers the Director-General to permit applications and lodgments under or for the purposes of the new Part 9A to be made using the electronic service described in the new section 42AA of the Building Control Act 1989, as inserted by clause 10.

Clause 17 amends the Third Schedule to introduce new matters which may be prescribed in regulations to support the new Part 9A, as inserted by clause 16.

PART 3

AMENDMENT OF ENVIRONMENTAL PUBLIC HEALTH ACT 1987

Clause 18 inserts a new Part 5A consisting of 15 new sections.

The new Part 5A establishes a framework for the Director-General of Public Health (called the Director-General) to regulate building works and works involving the installation, extension or alteration of certain facilities (collectively called controlled works), to ensure that such works comply with environmental public health requirements. This is similar in structure to the framework in the new Part 9A of the Environmental Protection and Management Act 1999, as inserted by clause 16.

The new section 46A sets out various definitions used in the new Part 5A.

The new section 46B sets out the purpose of the new Part 5A. It also clarifies that the new Part 5A does not limit the operation of other written laws relating to the regulation of controlled works, for example, the Building Control Act 1989.

The new section 46C prohibits the carrying out of any controlled works without a clearance certificate issued by the Director-General.

The new section 46D empowers the making of regulations to exempt from the new section 46C (with or without conditions) any class of controlled works of any buildings or facilities that have been assessed to pose a low risk of giving rise to the spread of any infectious disease or of harbouring conditions injurious or dangerous to public health. The conditions may include requiring plans of such exempt works to be lodged with the Director-General.

The new section 46E sets out the matters governing an application for a clearance certificate, which the Director-General may issue if the plans of the controlled works comply with environmental public health requirements.

The new section 46F creates an optional process in respect of controlled works. The developer of the controlled works may, if the developer intends to carry out any site formation works or other prescribed works, apply to the Director-General for early clearance of the key design parameters of the works. If the key design parameters comply with environmental public health requirements, the Director-General may issue a design certificate authorising the developer to carry out site formation works or other prescribed works, pending any application for or issuance of a clearance certificate.

The new section 46G requires a developer of controlled works to apply for a new clearance certificate under the new section 46E if the developer intends to depart or deviate from any plans of those works for which a clearance certificate was previously issued. This provision is similar to the requirement in section 5A of the Building Control Act 1989.

The new section 46H makes it an offence for a person to carry out any controlled works that deviate from the plans of those works for which a clearance certificate has been issued. This provision is similar to section 20(3) and (4) of the Building Control Act 1989.

The new section 46I requires a developer who has obtained a clearance certificate for the plans of controlled works to apply to the Director-General for a compliance certificate upon the completion of the works, to certify that the works have been completed in accordance with the plans and the conditions (if any) in the clearance certificate.

The new section 46J empowers the Director-General to issue a temporary compliance certificate in the first instance where an application for a compliance certificate is made in respect of completed controlled works. The Director-General may issue the temporary compliance certificate if he or she considers that the building that is the subject of the works or in relation to which the works are done has substantially complied with environmental public health requirements such that it is suitable for occupation. However, the actual occupation of the building would still be subject to the issuance of a temporary occupation permit or certificate of statutory completion under the Building Control Act 1989.

The new section 46K imposes penalties for providing false or misleading information for the purpose of obtaining any certificate under the new Part 5A. It also empowers the Director-General to revoke any certificate if he or she is satisfied that false or misleading information has been provided for the purpose of obtaining the certificate.

The new section 46L creates a procedure for appeals to the Minister against decisions of the Director-General under the new Part 5A to disapprove an application, impose conditions on the grant of a certificate, or revoke any certificate.

The new section 46M empowers the Minister to designate a political office-holder or a public officer, in his or her Ministry, to hear and determine any appeals under the new section 46L in the Minister's place.

The new section 46N empowers the Director-General to permit applications and lodgments under or for the purposes of the new Part 5A to be made using the electronic service described in the new section 42AA of the Building Control Act 1989, as inserted by clause 10.

The new section 46O provides for the registration of registered inspectors for the purposes of the new Part 5A, and allows regulations to be made to provide for the appointment and duties of registered inspectors. A registered inspector may be appointed by a developer to inspect any completed controlled works for the purposes of an application for a compliance certificate under the new section 46L. This provision is similar to section 34 of the Environmental Protection and Management Act 1999.

Clause 19 amends section 99 to provide that the provisions on licences in that section do not apply to certificates issued under the new Part 5A, as inserted by clause 18.

Clause 20 amends the Third Schedule to introduce new matters which may be prescribed in regulations to support the new Part 5A, as inserted by clause 18.

PART 4

AMENDMENT OF FIRE SAFETY ACT 1993

Clause 21 inserts a new section 99A, which empowers the Commissioner of Civil Defence to permit applications under Part 4 to be made using the electronic service described in the new section 42AA of the Building Control Act 1989, as inserted by clause 10.

PART 5

AMENDMENT OF PARKS AND TREES ACT 2005

Clause 22 inserts a new section 59A, which empowers the Commissioner of Parks and Recreation to permit applications under the Act and regulations, for any matter connected with building works, to be made using the electronic service described in the new section 42AA of the Building Control Act 1989, as inserted by clause 10.

PART 6

AMENDMENT OF PLANNING ACT 1998

Clause 23 amends the definition of “provisional permission” in section 2 to include a provisional permission granted under the new section 17A, as inserted by clause 25.

Clause 24 amends section 17 to replace the term “final permission” with “written permission”. This amendment does not alter the substance of section 17 as a final permission simply means a written permission granted after an initial grant of provisional permission under section 17(1). The amendment seeks to standardise all references to written permission in the Act regardless of whether such written permission is granted in the first instance or after a grant of provisional permission.

Clause 25 introduces a new section 17A to enable applications for provisional permission. The new section allows applicants for planning permission or conservation permission to apply to the competent authority for early clearance of the key design parameters of the development or works to be carried out, so the applicants can commence preliminary works before making an application for written permission (which necessarily involves more detail and thus requires more time and effort to prepare).

Clause 26 deletes section 20(1)(b) which refers to a final permission granted under section 17(4). Section 20(1)(b) is no longer necessary in light of the amendment to section 17 to replace the term “final permission” with “written permission”.

Clause 27 introduces a new section 52A to empower the competent authority to permit applications, lodgments and submissions under the Act to be made using the electronic service described in the new section 42AA of the Building Control Act 1989, as inserted by clause 10.

PART 7

AMENDMENT OF WILDLIFE ACT 1965

Clause 28 inserts a new section 19A. The new section applies when a person has used the electronic service described in the new section 42AA of the Building Control Act 1989 (inserted by clause 10), to make an application under section 5 or 5A, or a lodgment under the new section 5AA, of the Building Control Act 1989. The Director-General, Wildlife Management may serve on the person a direction under section 10(1) of the Wildlife Act 1965 using the electronic service.

PART 8

CONSEQUENTIAL AMENDMENTS AND
SAVING AND TRANSITIONAL PROVISIONS

Clause 29 makes various amendments to the Amusement Rides Safety Act 2011 that are consequential to the new section 5AA of the Building Control Act 1989, as inserted by clause 4.

Clause 30 makes various amendments to the Building Maintenance and Strata Management Act 2004 that are consequential to the new section 5AA of the Building Control Act 1989, as inserted by clause 4.

Clause 31 amends section 26A of the Energy Conservation Act 2012, by extending the obligations in section 26A(1)(a) and (b) (if applicable) to conduct an energy efficiency opportunities assessment and submitting a report of the assessment to the Director-General of Environmental Protection, before making an application for a design certificate under the Environmental Protection and Management Act 1999. This amendment is consequential to the new section 33F in the Environmental Protection and Management Act 1999, as inserted by clause 16.

Clause 32 makes amendments to sections 2, 8 and 26 of the Land Betterment Charge Act 2021 that are consequential to amendments made to the Planning Act 1998 under Part 6.

Clause 33 provides for saving and transitional provisions.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
