

LEGISLATIVE COUNCIL

Environmental Planning and Assessment Amendment Bill 2014

First print

Proposed amendments

No. 1 **Enforcement orders binding successors in title**

Page 16, Schedule 2. Insert after line 37:

[10] Section 124B

Insert after section 124A:

124B Enforcement orders that bind successors in title to land

- (1) This section applies if:
 - (a) the Court makes an order under this Act directing a person (the *defendant*) to remove any unlawful building on land, to make good any damage to land or to carry out any other work on land, and
 - (b) the defendant has an estate in fee simple in the land, and
 - (c) the order states that this section applies to the order.
- (2) The authority or other person who applied to the Court for the order (the *enforcement authority*) may apply to the Registrar-General for registration of the order in relation to the land to which it applies. The application is to be accompanied by a copy of the order and define the land to which the application for registration relates.
- (3) The Registrar-General must, on application under this section, register the order in relation to the land in such manner as the Registrar-General thinks fit. If the order relates to land under the provisions of the *Real Property Act 1900*, the order is to be registered under that Act.
- (4) If, after the Registrar-General registers the order in relation to the land, the defendant transfers to another person (the *successor in title*) an estate in fee simple in all or any part of the land:
 - (a) the order is taken to have been made against the successor in title in the same terms as the order against the defendant, and
 - (b) any remaining obligations of the defendant under the order in relation to any part of the land transferred become the obligations of the successor in title in addition to the obligations of the defendant, and

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- (c) the successor in title has the same period in which to comply with the order as the defendant has to comply with the order (subject to any direction of the Court to the contrary).

This subsection does not affect any criminal or civil liability of the defendant.

- (5) The Registrar-General is to remove the registration of an order under this section if ordered by the Court to do so in the interests of justice or if an application is made for its removal by the successor in title with the approval of the enforcement authority. The enforcement authority is not to unreasonably refuse approval if the order has been revoked or complied with or it is no longer reasonably practicable to comply with the order.
- (6) If the registration of an order under this section is removed, the successor in title ceases to have any obligation under the order.
- (7) This section has effect in relation to each successor in title in respect of the relevant land in the same way it had effect in relation to the first successor in title.