



PLANNING SYSTEM

Act and regulation changes

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Related	

Establishment of joint regional planning panels

The purpose of this circular is to advise councils and the public of the commencement of joint regional planning panels on 1 July 2009.

Introduction

The *Environmental Planning and Assessment Amendment Act 2008* (Amendment Act) was assented to on 25 June 2008.

The Amendment Act includes provisions for Joint Regional Planning Panels (Regional Panels)—independent bodies that will determine regionally significant development applications (DAs).

Regional Panels consist of three State and two council members, with council membership rotating depending on which local government area the proposed development is located in.

The provisions in the Amendment Act relating to Regional Panels commence 1 July 2009 along with:

- Joint Regional Planning Panels Order 2009
- Environmental Planning and Assessment Amendment (Regional Panels) Regulation 2009 (Amending Regulation), and
- an amendment to State Environmental Planning Policy (Major Projects) 2005 (Major Projects SEPP) relating to Regional Panels.

Regional Panels formed

The Minister for Planning has constituted the following five Regional Panels by the Joint Regional Planning Panels Order 2009 gazetted on 26 June 2009:

- Sydney East Joint Planning Panel
- Sydney West Joint Planning Panel
- Hunter and Central Coast Joint Planning Panel
- Northern Region Joint Planning Panel
- Southern Region Joint Planning Panel

Attachment A outlines which local government areas are covered by each Regional Panel listed above.

Functions of Regional Panels

The Regional Panels may perform several planning functions, including:

- certain council consent authority functions identified in an environmental planning instrument
- being able to be appointed as a relevant planning authority for local environmental plans in specified circumstances
- advising the Minister in relation to planning and development matters or environmental planning instruments where requested.

The Major Development SEPP (formerly called the Major Projects SEPP) sets out the functions of Regional Panels in determining DAs, including:

- DAs for classes of regional development (outlined below)
- applications for the modification of consents (where the Regional Panel granted consent in the first instance)
- certain staged DAs.

Councils will continue to carry out other consent authority functions associated with these DAs. This includes receipt and assessment of the DAs and the preparation of an assessment report and recommendations for determination that will be provided to the relevant Regional Panel.

Councils will also carry out post-determination functions including notification, management and application of developer contributions, certification and appeals (except in exceptional circumstances, including where a council is the DA applicant and has commenced Land and Environment Court proceedings, i.e. the Regional Panels will be the relevant respondent in such proceedings).

The Amending Regulation also outlines other functions to be carried out by councils with respect to Regional Panel matters, including public participation and

concurrence requirements and obligations with respect to deferred commencement and ancillary development.

Classes of regional development

The Major Development SEPP now identifies classes of *regional development* to be determined by the Regional Panels. These classes include the following development (unless they are a Part 3A project):

- designated development
- development with a capital investment value (CIV) over \$10 million
- the following development with a CIV over \$5 million:
 - certain public and private infrastructure
 - Crown development
 - development where council is the proponent or has a conflict of interest
 - ecotourism
- subdivision of land into more than 250 lots
- certain coastal developments previously assessed under Part 3A of the EP&A Act.

Regional Panels will not determine proposals for the above classes of regional development if they are:

- development under Part 3A of the EP&A Act
- complying development
- development that does not require consent (including exempt development and development to which Part 5 applies)
- development where the consent authority is not the council (including where the Minister is the consent authority)
- development within the City of Sydney local government area.

Procedural matters for Regional Panels

The Amending Regulation outlines procedural requirements relating to Regional Panels such as:

- where a DA relates to land in two or more local government areas, a separate DA must be lodged with each council for the area in which the proposed development is situated
- Regional Panels may obtain assessment reports and other technical advice or assistance
- Regional Panels may be required to provide the Minister with information and reports.

The Minister has also adopted the following documents to facilitate the operation of the Regional Panels:

- *Joint regional planning panels code of conduct* (code of conduct)
- *Procedures for the operation of joint regional planning panels* (the procedures).

The code of conduct and the procedures were developed following consultation with stakeholders, including the Implementation Advisory Committee and Local Government Planning Directors Group as well as the Department of Local Government, NSW Ombudsman, Independent Commission Against Corruption and local government.

The Regional Panel code of conduct sets out the standards of conduct expected of Regional Panel members.

It has been developed having regard to similar codes of conduct applying to NSW government boards and local councils, including:

- *Conduct guidelines for members of NSW government boards and committees* (NSW Premier's Department 2001)
- *Model code of conduct for local councils in NSW* (Department of Local Government 2008).

The Regional Panel procedures:

- identify the procedures to be followed by Regional Panels in exercising their functions
- clarify the role of councils in respect of matters being determined by Regional Panels
- provide guidance for the community on the operation of Regional Panels.

Both the code of conduct and the procedures will be reviewed on a regular basis in consultation with Regional Panel members, and may be revised from time to time.

Changes to Part 3A development

As part of the introduction of regional development, some changes have been made to the classes of development for which Part 3A declarations may be made.

The primary changes in the Major Development SEPP affecting Part 3A declarations include:

- increasing the Part 3A project minimum threshold from \$50 million to \$100 million CIV for residential, commercial or retail projects
- expanding the Part 3A classes of development for tourist related facilities, major convention and exhibition centres or multi-use entertainment facilities to include proposals with a CIV over \$5 million in *sensitive coastal locations*
- reducing other Part 3A classes for certain types of development in the coastal zone (e.g. small subdivisions, tall buildings, mining, extractive industries, marinas and landfills).

These changes will mean that some development previously assessed by the Department of Planning and determined by the Minister will now be assessed by councils and determined by the Regional Panels.

For example, residential, commercial or retail projects with a CIV over \$50 million previously could be determined by the Minister as Part 3A projects. Under the new scheme however the Minister will now determine residential, commercial or retail projects with a CIV of more than \$100 million. Residential, commercial or retail projects under \$100 million will now be determined by councils or Regional Panels.

Regional Panels will also determine other development proposals that were previously Part 3A projects including development in the coastal zone such as certain types of subdivision, small mining or extractive industry operations, landfills, tourist and visitor accommodation and tall buildings or structures.

For further details on the classes of regional development please refer to Part 3 of the Major Development SEPP.

Savings, transitional and related provisions

The changes to classes of regional development and Part 3A projects in the SEPP do not apply to any Part 4 DAs or Part 3A applications that have been made but not determined prior to 1 July 2009.

The SEPP provisions also do not apply to development in the local government areas in the Western Region or the Wagga Wagga local government area until such time as Regional Panels are put in place for those areas.

It is also important to note that the Amending Regulation includes a transitional provision to clarify that where planning assessment panels have been established (section 118 panels), such panels may not exercise council consent authority functions for DAs to be determined by a Regional Panel.

Furthermore, the EP&A Act provides that, where a Regional Panel has not been appointed for a particular part of the State, the Planning Assessment Commission will carry out the Regional Panel functions. This includes Regional Panel functions in respect of Crown development. For example, the Planning Assessment Commission will carry out Regional Panel functions in respect of Crown development in the City of Sydney local government area.

Further information

Copies of the code of conduct, the procedures and further information on Regional Panels are available on the joint regional planning panels website at www.jrpp.nsw.gov.au.

The Amendment Act, Amending Regulation and the Major Development SEPP (formerly called the Major Projects SEPP) are available on the NSW legislation website at www.legislation.nsw.gov.au.

For enquiries about the Regional Panels please phone 1300 938 344. For all other enquiries please phone the Department's Information Centre 02 9228 6333 or email information@planning.nsw.gov.au.

Note: This and other Department of Planning circulars are published on the web at www.planning.nsw.gov.au/planningsystem/practicenotes.

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Important note: This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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Attachment A—Joint regional planning panels

The Joint Regional Planning Panels Order 2009 (gazetted on 26 June 2009) was made to constitute five Regional Panels for the following local government areas:

Sydney East Joint Planning Panel

Ashfield, Botany Bay City, Burwood, Canada Bay, Canterbury City, Hunters Hill, Hurstville City, Kogarah, Lane Cove, Leichhardt, Manly, Marrickville, Mosman, North Sydney, Pittwater, Randwick City, Rockdale City, Ryde City, Strathfield, Sutherland Shire, Warringah, Waverley, Willoughby City, Woollahra.

Sydney West Joint Planning Panel

Auburn, Bankstown City, Blacktown City, Blue Mountains, Camden, Campbelltown City, Fairfield City, Hawkesbury City, Holroyd City, Hornsby, Kuring-gai, Liverpool City, Parramatta City, Penrith City, The Hills Shire, Wollondilly.

Hunter and Central Coast Joint Planning Panel

Cessnock City, Dungog, Gloucester, Gosford, Great Lakes, Greater Taree City, Lake Macquarie City, Maitland City, Muswellbrook, Newcastle City, Port Stephens, Singleton, Upper Hunter Shire, Wyong.

Northern Region Joint Planning Panel

Armidale Dumaresq, Ballina, Bellingen, Byron, Clarence Valley, Coffs Harbour City, Glen Innes Severn, Gunnedah, Guyra, Gwydir, Inverell, Kempsey, Kyogle, Lismore City, Liverpool Plains, Moree Plains, Nambucca, Narrabri, Port Macquarie-Hastings, Richmond Valley, Tamworth Regional, Tenterfield, Tweed Shire, Uralla, Walcha.

Southern Region Joint Planning Panel

City of Albury, Bega Valley, Bombala, Boorowa, Coolamon, Cooma-Monaro Shire, Cootamundra, Eurobodalla, Goulburn Mulwaree Council, Greater Hume Shire, Gundagai, Harden, Junee, Kiama, Lockhart, Palerang, Queanbeyan City, Shellharbour City, Shoalhaven City, Snowy River Shire, Temora, Tumbarumba, Tumut Shire, Upper Lachlan Shire, Wingecarribee, Wollongong City, Yass Valley, Young.

The above Regional Panels commence on 1 July 2009.

Note

The City of Sydney local government area is not included in any of the identified Regional Panels above. In accordance with section 40 the *City of Sydney Act 1988*, major development with an estimated cost over \$50 million will continue to be determined by the Central Sydney Planning Committee.

Separate processes are underway to put in place Regional Panels for the local government areas of the Western Region, and for the Wagga Wagga local government area.