

PLANNING SYSTEM

Local planning

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Related	

Changes to landowner's consent and notification requirements – Local Aboriginal Land Councils

The purpose of this circular is to advise planning authorities of new arrangements for landowner's consent and notification requirements relating to applications under Part 3A and Part 4 of the *Environmental Planning and Assessment Act 1979* when the subject land is owned by a Local Aboriginal Land Council.

Introduction

The *Aboriginal Land Rights Amendment Act 2009* was passed and assented to in September 2009. The Act will commence on 31 March 2010.

The Act includes several consequential amendments to the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

Additional owners' consent requirements

The amendments to the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000* will mean the following changes to the assessment process for applications under Part 3A and Part 4 of the *Environmental Planning and Assessment Act 1979*:

- If landowner's consent is required from a Local Aboriginal Land Council for project applications and requests for the modification of a project approval under Part 3A and of the *Environmental Planning and Assessment Act 1979*, consent from the NSW Aboriginal Land Council is also required.
- The requirements for concept plan applications and other applications under Part 3A that do not require landowner's consent will not be affected by the changes.

- If landowner's consent is required from a Local Aboriginal Land Council for development applications and applications for modification of development consent under Part 4 of the *Environmental Planning and Assessment Act 1979*, consent from the NSW Aboriginal Land Council is also required.
- If a Local Aboriginal Land Council (as landowner) authorises another party to submit an application on their behalf, this does not change the requirement to obtain the consent of the NSW Aboriginal Land Council.
- The *Aboriginal Land Rights Amendment Act 2009* introduces a new instrument known as a Dealing Approval Certificate (DAC), which will be necessary for a land dealing related to land vested in NSW Aboriginal Land Council or a Local Aboriginal Land Council. The amendments to the *Environmental Planning and Assessment Act 1979* provide the creation of a DAC will serve as landowner's consent for the purpose of applications lodged under Part 3A or Part 4 of the *Environmental Planning and Assessment Act 1979*.

Additional notice of determination

- Notice of the determination of a development application or modification of a development consent relating to land owned by a Local Aboriginal Land Council must also be given by the consent authority to the NSW Aboriginal Land Council.

Transitional Provisions

The above requirements do not apply to applications under Part 3A and Part 4 of the *Environmental Planning and Assessment Act 1979* that have been made but not determined prior to the commencement of the *Aboriginal Land Rights Amendment Act 2009* on 31 March 2010.

Further information

A copy of the *Aboriginal Land Rights Amendment Act 2009* is available on the NSW Government's legislation website:

<http://www.legislation.nsw.gov.au>

If you have further enquiries, please contact:

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