

PLANNING SYSTEM

Environmental Planning and Assessment Amendment
Regulation 2010

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Environmental Planning and Assessment Amendment Regulation 2010

This circular outlines the effect of the *Environmental Planning and Assessment Amendment Regulation 2010* for councils, accredited certifiers and the community.

Introduction

The *Environmental Planning and Assessment Amendment Regulation 2010* (the Amending Regulation) commences on 3 September 2010.

The Amending Regulation makes a series of minor changes to the *Environmental Planning and Assessment Regulation 2000* (the EP&A Regulation) outlined below.

Modification of certain existing Ministerial consents

State significant development was introduced into the *Environmental Planning and Assessment Act 1979* (the EP&A Act) on 1 July 1998. It was repealed on 1 August 2005. The Minister for Planning (the Minister) was the consent authority for State significant development (SSD).

Transitional provisions in the EP&A Regulation require certain existing consents granted by the Minister under Part 4 of the EP&A Act to be modified under section 75W of the Act.

Currently under the transitional provisions only consents that were approved as SSD under Division 4 of Part 4 of the EP&A Act (now repealed) must be modified in this way.

Consents granted under Division 4 only accounted for a small proportion of the existing SSD consents. Division 4 does not capture development that was declared by a State environmental planning policy or a regional environmental plan to be SSD or to particular development that was, in the opinion of the

Minister, of State or regional environmental planning significance and was declared by notice in the Gazette to be SSD.

The revised arrangements which commence on 3 September 2010 will require all existing consents for State significant development to be modified under section 75W of the EP&A Act.

Under the current transitional provisions only consent granted under 100A or 101 before 1 July 1998 (the repeal date of those sections) are required to be modified under section 75W of the EP&A Act.

The revised arrangements will also require Ministerial consents granted under sections 100A or 101 after 1 July 1998 to be modified under section 75W where the consent was granted on the basis of transitional arrangements after that date.

Changes relating to certification

The EP&A Regulation requires a critical stage inspection for a swimming pool after the barrier is erected but before the pool is filled with water. This regime does not work for fibreglass pools which need to be filled during construction. The requirement for a critical stage inspection for swimming pools has been changed so that the inspection must be carried out as soon as practicable after any barrier required under the *Swimming Pools Act 1992* has been erected.

The requirement for a critical stage inspection for footings for certain classes of buildings is after excavation for, and before the placement of, any footings. The Amending Regulation clarifies that such inspections are only required before the

placement of the first footing, and not subsequent footings.

The Amending Regulation introduces a new requirement on principal certifying authorities (PCA) to keep written records of any complaints received in relation to development, actions taken or response given by the PCA in relation to the complaint.

Similar to the existing requirement on councils, consent authorities are now also required to give a copy of any intention to make an order in relation to building or subdivision work to the relevant PCA (where the consent authority is not the principal certifying authority). Consent authorities and councils must do so within seven days after the notice of intention to give the order concerned is given.

Changes relating to timing of the planning reform fee

The Amending Regulation makes minor changes to the timing of the obligation of a council to remit a proportion of the development application fee to the Director-General of the Department of Planning (the Department). The revised requirements reflect the current Departmental practice by requiring reports by the 14th of each month and then any monies payable by the 28th of that month.

Further information

A copy of the *Environmental Planning and Assessment Amendment Regulation 2010* and the *Environmental Planning and Assessment Regulation 2000* (as amended) are available on the NSW legislation website at <http://www.legislation.nsw.gov.au>.

Electronic copies of Ministerial consents granted between 2000 and 2008 are available through the Department's website under "Development Assessments - Notices of Determination". Copies of earlier notices of determination are available in hardcopy through the Department's information centre.

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

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