

# **Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Amendment Determination 2020**

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning and Public Spaces, in pursuance of section 7.23 of the *Environmental Planning and Assessment Act 1979*, make the following Determination.



Minister for Planning and Public Spaces

Dated: 25/06/2020

## **1 Name of Determination**

This Determination is the *Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Amendment Determination 2020*.

## **2 Commencement**

This Determination takes effect on the date of its publication in the Gazette.

## **3 Amendment of Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Determination 2011**

The *Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Determination 2011* is amended as set out in Schedule 1.

## **4 Reasons for allowing payment of contributions to be deferred**

The reason for this Determination to amend the *Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Determination 2011* is to allow, in certain cases, the deferral of payment of special infrastructure contributions required by development consents granted during the COVID-19 pandemic, so as to contribute to measures to stimulate the NSW economy.

## Schedule 1 Amendments

### Clause 25A

Insert after clause 25:

#### **25A Deferral of payment during pandemic period**

##### **Application of clause**

- (1) This clause applies only to a development consent that is granted during the pandemic period and authorises the erection of a new building or a change of use of an existing building, and only if Part 6 of the Act will require an occupation certificate for:
  - (a) the commencement of the occupation or use of the whole or part of the new building, or
  - (b) the commencement of a change of building use for the whole or any part of the building.
- (2) However, this clause does not apply in either of the following circumstances:
  - (a) the estimated cost of the development that is the subject of the development consent is less than \$10,000,000, as determined in accordance with the *Environmental Planning and Assessment Regulation 2000* for the purpose of calculating the fee for the development application to carry out the development,
  - (b) the development consent authorises the subdivision of land that will result in the creation of additional lots, as well as authorising the erection of a building or a change of use of an existing building.
- (3) This clause applies only if the development consent is granted on or after the *Environmental Planning and Assessment (Special Infrastructure Contribution – Western Sydney Growth Areas) Amendment Determination 2020* takes effect, and applies even if the development application concerned was made before this clause takes effect. This clause applies despite any other provision of this Determination.

##### **SIC not required until occupation certificate stage**

- (4) The special infrastructure contribution required by a development consent to which this clause applies, if made as a monetary contribution, may be paid at any time before the issue of the first occupation certificate in respect of any of the buildings to which the development consent relates, and is not required to be paid at any earlier time.

- (5) This subclause applies to a monetary contribution if, but for this clause, the whole or any part of the contribution would have been required to have been paid at a time that is earlier than before the issue of the first occupation certificate (the ***earlier stage for payment***), such as:
- (a) before the issue of a construction certificate in respect of any of the buildings to which the development consent relates, in accordance with clause 15, or
  - (b) before the issue of a strata certificate in respect of the development, in accordance with clause 17.

In that case, despite subclause (4), the whole or part of the monetary contribution must be paid before the earlier stage for payment if that earlier stage for payment occurs after 25 September 2022.

- (6) To avoid doubt, a deferred payment arrangement in relation to the monetary contribution under a development consent to which this clause applies is not required in the case of a development consent for the creation of strata lots to which this clause applies, but nothing in this clause prevents the entry into such an arrangement in accordance with the other provisions of this Determination.

#### **Interpretation**

- (7) In this clause:
- (a) ***pandemic period*** means the prescribed period within the meaning of section 10.17 of the Act, and
  - (b) ***subdivision of land*** does not include the procurement of the registration of a strata plan or strata plan of subdivision, within the meaning of the *Strata Schemes Development Act 2015*.

**Note.** Under section 10.17 of the *Environmental Planning and Assessment Act 1979*, the prescribed period commenced on 25 March 2020. It ends 6 months later, unless regulations are made to extend the period for up to another 6 months.



