1995—No. 415

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979—REGULATION

(Environmental Planning and Assessment Regulation 1994)

NEW SOUTH WALES

[Published in Gazette No. 108 of 26 August 1994]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Environmental Planning and Assessment Act 1979, has been pleased to make the Regulation set forth hereunder.

ROBERT WEBSTER MLC
Minister for Planning.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Environmental Planning and Assessment Regulation 1994.

Commencement

2. This Regulation commences on 1 September 1994.

Definitions

3. (1) In this Regulation, expressions that are defined in the dictionary at the end of this Regulation have the meanings given to them by the dictionary.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 5.

Notes

4. Notes in this Regulation do not form part of this Regulation.

When is public notice given?

5. Public notice in a local newspaper is given for the purposes of this Regulation when the notice is first published in a local newspaper, even if the notice:

(a) is required to be published in a local newspaper more than once; or

(b) is required to be published in a local newspaper and some other newspaper.

PART 2—LOCAL ENVIRONMENTAL PLANS

Division 1—Consultation with the Department

How and when must information be given to the Secretary?

6. (1) The information required by section 54(4) of the Act to be given to the Secretary of a decision to prepare a draft local environmental plan:

(a) must be in writing; and

(b) must be given within 28 days after the decision to prepare the draft plan is made; and

(c) must include the particulars listed in subclause (2).

(2) The particulars to be included are as follows:

(a) the date of the council's decision;

(b) the reasons for the council's decision;

(c) a description of the land to which the draft plan is intended to apply, which may (but need not) consist of a map of the land;

(d) an indication of the range of matters to be dealt with by the draft plan;

(e) details of the current planning position of the subject land;

(f) details of the known environment (including social and economic factors) of the subject land; and

(g) the council's opinion as to whether an environmental study is necessary before the draft plan is prepared, together with the council's reasons for holding that opinion, giving details of any relevant existing environmental studies;

(h) if the council is of the opinion that an environmental study is necessary, details of the matters that the council considers should be covered by the study.

What documents may a council be required to give the Secretary?

7. Before the Director issues a certificate under section 65 of the Act, the Director may require a council to give the Secretary:

(a) 2 copies of any relevant environmental study prepared by the council; and

(b) 2 additional copies of the draft local environmental plan.

Secretary may require additional copies of the draft local environmental plan

8. Before the Minister makes a local environmental plan under section 70 of the Act, the Secretary may require a council to give the Secretary as many additional copies of the draft plan as are reasonably required for the purposes of the Act.

Division 2—Consultation and concurrence with other authorities

What documents must be given to other public authorities?

9. (1) The council must give:

(a) a copy of any environmental study or a summary of the study; and

(b) a copy of the draft local environmental plan or a summary of the plan,

to each public authority that the council considers likely to be affected by, or to have an interest in, any environmental study prepared for the purposes of the draft plan.

(2) The documents must be given, free of charge, as soon as practicable after the start of the public exhibition of the draft local environmental plan.

Public authorities must concur to proposed reservation of land

10. A local environmental plan or draft local environmental plan:

(a) may not contain a provision reserving land for a purpose referred to in section 26 (c) of the Act; and

(b) may not contain a provision in respect of that reservation as required by section 27 of the Act,

unless the public authority responsible for the acquisition of the land has notified the council of its concurrence to the provision being included.

Division 3—Public participation

What public notice is required for an environmental study and draft local environmental plan?

11. The public notice required to be given by the council under section 66 (1) of the Act must be published no later than the start of the public exhibition of the draft local environmental plan.

For how long must an environmental study and draft local environmental plan be exhibited?

12. For the purposes of section 66 (2) of the Act, the environmental study and draft local environmental plan must be publicly exhibited for at least 28 days.

How is notice of a public hearing to be given?

13. (1) A council that decides that a public hearing is to be held under section 68 of the Act must give notice of that fact:

(a) by letter, to each of the persons who requested a public hearing when making a submission about the draft local environmental plan; and

(b) in a local newspaper.

(2) The notice must contain details of the arrangements for the public hearing and must be sent or published, as the case requires, at least 21 days before the start of the public hearing.

Division 4—General

Recovery of cost of environmental study

14. For the purposes of section 57 (5) of the Act, the recovery from a person of any costs or expenses incurred by a council in the preparation of an environmental study is subject to:

(a) the person agreeing to pay those costs and expenses; and

(b) the terms of the agreement.

PART 3—DEVELOPMENT CONTROL PLANS

Division 1—Preparation of development control plans by councils

In what form must a development control plan be prepared?

15. (1) A development control plan must be in the form of a written statement, and may include supporting maps, plans, diagrams, illustrations and other materials.

(2) A development control plan must describe the land to which it applies and must identify any local environmental plan or deemed environmental planning instrument applying to that land.

For what matters may a development control plan provide?

16. A development control plan may provide for any matter for which a local environmental plan may provide.

Division 2—Public participation

Draft development control plan must be publicly exhibited

17. (1) Following the preparation of a draft development control plan, the council:

(a) must give public notice in a local newspaper of the places, dates and times for inspection of the draft plan;

(b) must publicly exhibit at the places, on the dates and during the times set out in the notice:

(i) a copy of the draft plan; and

(ii) a copy of any relevant local environmental plan or deemed environmental planning instrument; and

(c) must specify in the notice the period (which must include the period during which the plan is being publicly exhibited) during which submissions about the draft plan may be made to the council.

(2) A draft development control plan must be publicly exhibited for at least 28 days.

Copies of draft development control plans to be publicly available

18. Copies of the draft development control plan, and of any relevant local environmental plan or deemed environmental planning instrument, are to be made available to interested persons, either free of charge or on payment of reasonable copying charges.

Who may make submissions about a draft development control plan?

19. Any person may make written submissions to the council about the draft development control plan during the period specified in the relevant notice.

Division 3—Approval of development control plans

Approval of development control plan by council

20. (1) After considering any submissions about the draft development control plan that have been duly made, the council:

(a) may approve the plan in the form in which it was publicly exhibited; or

(b) may approve the plan with such alterations as the council thinks fit; or

(c) may decide not to proceed with the plan.

(2) The council must give public notice of its decision in a local newspaper within 14 days after the decision is made.

(3) Notice of a decision not to proceed with a development control plan must include the council's reasons for the decision.

(4) A development control plan comes into effect on the date that public notice of its approval is given in a local newspaper or on a later date specified in the notice.

(5) The council must give the Secretary a certified copy of any development control plan approved under this clause.

Division 4—Amendment and repeal of development control plans

How may a development control plan be amended or repealed?

21. (1) A council may amend a development control plan by a subsequent development control plan.

(2) A council may repeal a development control plan:

(a) by a subsequent development control plan; or

(b) by public notice in a local newspaper of its decision to repeal the plan.

Procedure for repealing a development control plan by public notice

22. (1) Before repealing a development control plan by public notice in a local newspaper, the council must give public notice in a local newspaper:

(a) of its intention to repeal the development control plan; and

(b) of its reasons for doing so.

(2) Publication of the notice of intention must take place at least 14 days before publication of the notice of repeal.

(3) The repeal of a development control plan by public notice in a local newspaper takes effect on the date of publication of the notice.

Division 5—Development control plans made by the Director

Application of Part to development control plans made by the Director

23. (1) This Part applies to a development control plan prepared under section 51A of the Act, subject to the following modifications:

(a) a reference to a council is taken to be a reference to the Director;

(b) a reference to an office of a council is taken to be a reference to an office of the Department;

(c) a reference to a local environmental plan or deemed environmental planning instrument is taken to be a reference to a regional environmental plan.

(2) The Director is not required to give the Secretary a certified copy of the development control plan.

Division 6—Public access

Copies of development control plans to be publicly available

24. Copies of:

(a) any development control plan in force in relation to the council's area; and

(b) any document referred to in any such development control plan (such as a supporting map, plan, diagram, illustration or other material) that is held by the council,

are to be made available to interested persons, either free of charge or on payment of reasonable copying charges.

Note: This clause does not require a council to supply certified copies of any document. Certified copies are supplied under section 150 of the Act on payment of a prescribed fee. The fee for a certified copy is prescribed by clause 105.

PART 4—CONTRIBUTIONS PLANS

Division 1—Preparation of contributions plans

In what form must a contributions plan be prepared?

25. A contributions plan must be in the form of a written statement, and may include supporting maps, plans, diagrams, illustrations and other materials.

What particulars must a contributions plan contain?

26. (1) A contributions plan must include particulars of the following:

(a) the purpose of the plan;

(b) the land to which the plan applies;

(c) the relationship between the expected types of development in the area and the demand for additional public amenities and services. to meet that development;

(d) the formulas to be used for determining the section 94 contributions required for different categories of public amenities and services;

(e) the contribution rates for different types of development, as specified in a schedule to the plan;

(f) the council's policy concerning the timing of the payment of monetary section 94 contributions and the section 94 conditions that allow deferred or periodic payment;

(g) a works schedule of the specific public amenities and services proposed to be provided by the council, together with an estimate of their cost and staging.

(2) In determining the contribution rates for different types of development, the council must take into consideration the conditions that may be imposed under section 97(1)(b) of the Local Government Act 1993.

Division 2—Public participation

Draft contributions plan must be publicly exhibited

27. Following the preparation of a draft contributions plan, the council:

(a) must give public notice in a local newspaper of the places, dates and times for inspection of the draft plan; and

(b) must publicly exhibit at the places, on the dates and during the times set out in the notice:

(i) a copy of the draft plan; and

(ii) a copy of any supporting documents; and

(c) must specify in the notice the period (which must include the period during which the plan is being publicly exhibited) during which submissions about the draft plan may be made to the council.

Note: Section 94AB of the Act requires a draft contributions plan to be publicly exhibited for at least 28 days.

Copies of draft contributions plans to be publicly available

28. Copies of the draft contributions plan, and of any supporting documents, are to be made available to interested persons, either free of charge or on payment of reasonable copying charges.

Who may make submissions about a draft contributions plan?

29. Any person may make written submissions to the council about the draft contributions plan during the period specified in the relevant notice.

Division 3—Approval of contributions plans

Approval of contributions plan by council

30. (1) After considering any submissions about the draft contributions plan that have been duly made, the council:

(a) may approve the plan in the form in which it was publicly exhibited; or

(b) may approve the plan with such alterations as the council thinks fit; or

(c) may decide not to proceed with the plan.

(2) The council must give public notice of its decision in a local newspaper within 14 days after the decision is made.

(3) Notice of a decision not to proceed with a contributions plan must include the council's reasons for the decision.

(4) A contributions plan comes into effect on the date that public notice of its approval is given in a local newspaper or on a later date specified in the notice.

Division 4—Amendment and repeal of contributions plans

How may a contributions plan be amended or repealed?

31. (1) A council may amend a contributions plan by a subsequent contributions plan.

(2) A council may repeal a contributions plan:

(a) by a subsequent contributions plan; or

(b) by public notice in a local newspaper of its decision to repeal the plan.

Procedure for repealing a contributions plan by public notice

32. (1) Before repealing a contributions plan by public notice in a local newspaper, the council must give public notice in a local newspaper:

(a) of its intention to repeal the contributions plan; and

(b) of its reasons for doing so.

(2) Publication of the notice of intention must take place at least 14 days before publication of the notice of repeal.

(3) The repeal of a contributions plan by public notice in a local newspaper takes effect on the date of publication of the notice.

Division 5—Accounting

Councils must maintain contributions register

33. (1) A council that imposes section 94 conditions on development consents must maintain a contributions register.

(2) The council must record the following details in the register:

(a) particulars sufficient to identify each development consent for which a section 94 condition has been imposed;

(b) the nature and extent of the section 94 contribution required by the condition for each public amenity or service;

(c) the contributions plan under which the condition was imposed;

(d) the date or dates on which any section 94 contribution required by the condition was received and its nature and extent.

Accounting for monetary section 94 contributions

34. (1) A council must maintain accounting records that allow monetary section 94 contributions (and any additional amounts earned from their investment) to be distinguished from all other money held by the council.

(2) The accounting records for a Contributions plan must indicate the following:

(a) the various kinds of public amenities or services for which expenditure is authorised by the plan;

(b) the monetary section 94 contributions received under the plan, by reference to the various kinds of public amenities or services for which they have been received;

(c) the amounts spent in accordance with the plan, by reference to the various kinds of public amenities or services for which they have been spent.

(3) A council must disclose the following information for each contributions plan in the notes to its annual financial report:

(a) the opening and closing balances of money held by the council for the accounting period covered by the report;

(b) the total amounts received by way of monetary section 94 contributions during that period, by reference to the various kinds of public amenities or services for which they have been received;

(c) the total amounts spent in accordance with the contributions plan during that period, by reference to the various kinds of public amenities or services for which they have been spent;

(d) the outstanding obligations of the council to provide public amenities or services, by reference to the various kinds of public amenities or services for which monetary section 94 contributions have been received during that or any previous accounting period.

Councils must prepare annual statements

35. (1) As soon as practicable after the end of each financial year, a council must prepare an annual statement for the contributions plans in force in its area.

(2) The annual statement must disclose, for each contributions plan, the information required by this Division to appear in the notes to its annual financial report.

Division 6—Public access

Councils must keep certain records available for public inspection

36. (1) A council must make the following documents available for inspection at its principal office, free of charge, during the council's ordinary office hours:

(a) each current contributions plan;

(b) each annual statement;

(c) the contributions register,

prepared by it under this Part.

(2) Subject to section 428 of the Local Government Act 1993, the annual statement may be included in, or form part of, the annual report prepared by the council under that section.

Copies of contributions plans to be publicly available

37. Copies of:

(a) any contributions plan in force in relation to the council's area; and

(b) any document referred to in any such contributions plan that is held by the council,

are to be made available to interested persons, either free of charge or on payment of reasonable copying charges.

Note: This clause does not require a council to supply certified copies of any document. Certified copies are supplied under section 150 of the Act on payment of a prescribed fee. The fee for a certified copy is prescribed by clause 105.

PART 5—EXISTING USES

Object of Part

38. The object of this Part is to regulate existing uses under section 108 (1) of the Act.

Note: By section 108(2) of the Act, the provisions of this Part are "**the incorporated provisions**" and so are taken to be incorporated in every environmental planning instrument in force under the Act.

Certain development allowed

39. (1) An existing use may, in accordance with this Division, be:

(a) enlarged, expanded or intensified; or

(b) altered or extended; or

(c) rebuilt; or

(d) changed to another use, including a use that would otherwise be prohibited under the Act.

(2) A use to which an existing use is changed is itself taken to be an existing use for the purposes of the Act and may, subject to this Division, be changed to another use.

Development consent required for enlargement, expansion and intensifcation of existing uses

40. (1) Development consent is required for any enlargement, expansion or intensification of an existing use.

(2) The enlargement, expansion or intensification:

(a) must be for the existing use, or for a use changed under clause 43, but for no other use; and

(b) must be carried out only on the land on which the existing use was carried out immediately before the relevant date.

Development consent required for alteration or extension of buildings and works

41. (1) Development consent is required for any alteration or extension of a building or work used for an existing use.

(2) The alteration or extension:

(a) must be for the existing use of the building or work, or for a use changed under clause 43, but for no other use; and

(b) must be erected or carried out only on the land on which the building or work was erected or carried out immediately before the relevant date.

Development consent required for rebuilding of buildings and works

42. (1) Development consent is required for any rebuilding of a building or work used for an existing use.

(2) The rebuilding:

(a) must be for the existing use of the building or work, or for a use changed under clause 43, but for no other use; and

(b) must be carried out only on the land on which the building or work was erected or carried out immediately before the relevant date.

Development consent required for changes of existing uses

43. Development consent is required:

(a) for any change of an existing use to another use; and

(b) in the case of a building, work or land that is used for different existing uses, for any change in the proportions in which the various parts of the building, work or land are used for those purposes.

Uses may be changed at the same time as they are altered, extended, enlarged or rebuilt

44. Nothing in this Part prevents the granting of a development consent referred to in clause 40,41 or 42 at the same time as the granting of a development consent referred to in clause 43.

PART 6—DEVELOPMENT APPLICATIONS

Division 1—General requirements for applicants

How must a development application be made?

45. (1) For the purposes of section 77 of the Act, the prescribed form for a development application is Form 1.

(2) A development application may be delivered by hand, or sent by post, to the consent authority at its principal office.

(3) Immediately after receiving a development application, the consent authority:

(a) must register the application with a distinctive number; and

(b) must endorse the application with its registered number and the date of its receipt; and

(c) must give written notice to the applicant of its receipt of the application, of the registered number of the application and of the date on which the application was received.

Consent authority may require additional copies of development application and supporting documents

46. A consent authority that is required:

(a) to refer a development application to another person; or

(b) to mange for the public display of a development application,

may require the applicant to give it as many additional copies of the development application and supporting documents as are reasonably required for the purposes of the Act.

Consent authority may require additional information

47. (1) The consent authority may require the applicant to give it any additional information about the proposed development that is essential to the consent authority's proper consideration of the development application.

(2) The requirement must be made by the consent authority, in writing, within 21 days after it receives the development application.

(3) The information that a consent authority may require may include, but is not limited to, information relating to any relevant matter referred to in section 90 (1) of the Act or in any relevant environmental planning instrument.

(4) Nothing in this clause affects the consent authority's duty to determine a development application that is duly made.

What is the procedure for amending a development application?

48. (1) A development application may, but only with the agreement of the consent authority, be amended or varied by the applicant at any time before its determination.

(2) If an amendment or variation results in a change to the proposed development, particulars in writing of the amendment or variation sufficient to indicate the nature of the changed development must be annexed to the development application.

Division 2—Designated development

What is designated development?

49. (1) Development described in Schedule 3 is declared to be designated development for the purposes of the Act.

(2) Schedule 3, as in force when a development application is made, continues to apply to and in respect of the development application regardless of any subsequent substitution or amendment of that Schedule, and the application is unaffected by any such substitution or amendment.

(3) References in subclause (2) to Schedule 3 include references to Schedule 3 to the Environmental Planning and Assessment Regulation 1980.

Division 3—Environmental impact statements

What is the form for an environmental impact statement?

50. The prescribed form for an environmental impact statement under section 77 of the Act is Form 2.

What must an environmental impact statement contain?

51. (1) The contents of an environmental impact statement must include:

(a) for development of a kind for which specific guidelines are in force under this clause, the matters referred to in those guidelines; or

(b) for any other kind of development:

(i) the matters referred to in the general guidelines in force under this clause; or

(ii) if no such guidelines are in force, the matters referred to in Schedule 2.

(2) For the purposes of this clause, the Director may establish guidelines for the preparation of environmental impact statements, in relation to development generally or in relation to any specific kind of development.

(3) The Director may vary or revoke any guidelines in force under this clause.

Director may make requirements concerning preparation of environmental impact statements

52. (1) The applicant responsible for preparing an environmental impact statement must consult with the Director and, in completing the statement, must have regard to the Director's requirements:

(a) as to the form and content of the statement; and

(b) as to making the statement available for public comment.

(2) For the purposes of the consultation, the applicant must give the Director written particulars of the location, nature and scale of the development.

(3) Written notice of the Director's requirements must be given to the applicant within 28 days after the consultation is completed or within a further time agreed between the Director and the applicant.

(4) Written notice of the Director's requirements must also be given to the relevant consent authority at the same time as it is given to the applicant.

(5) If the development application to which the environmental impact statement relates is not made within 2 years after the notice is given, the applicant must consult further with the Director in relation to the preparation of the statement.

(6) The Director may waive the requirement for consultation under this clause in relation to any particular development or any particular kind of development.

Consent authority may require additional copies of environmental impact statement

53. The consent authority may require an applicant for development consent for designated development to give it as many additional copies of the environmental impact statement as are reasonably required for the purposes of the Act.

Division 4—Public participation (designated development)

Application of Division

54. This Division applies to designated development.

What information must be contained in a section 84 notice?

55. (1) For the purposes of section 84 (4) of the Act, a notice referred to in section 84 (1) (a) of the Act must contain the following information:

(a) a description (including the address) of the land on which the development is proposed to be carried out;

(b) a description of the proposed development;

(c) a statement that the proposed development is designated development;

(d) the name of the applicant and of the consent authority;

(e) a statement that the development application referred to in the notice and the documents accompanying the application (including the relevant environmental impact statement) may be inspected:

(i) at the consent authority's principal office; and

(ii) at the Department's offices (if the Minister or Director is not the consent authority); and

(iii) at the council's principal office (if the council is not the consent authority),

for a specified period during the relevant authority's ordinary office hours;

(f) a statement that:

(i) any person may, during the period specified under paragraph (e), make written submissions to the consent authority about the development application; and

(ii) if a submission is made by way of objection, the grounds of objection must be specified in the submission;

(g) unless the proposed development is subject to a direction under section 101 of the Act, a statement that any person:

(i) who makes a submission by way of objection; and

(ii) who is dissatisfied with the determination of the consent authority to grant development consent,

may appeal to the Land and Environment Court under section 98 of the Act;

(h) if the proposed development is subject to a direction under section 101 of the Act, a statement that:

(i) the Minister will determine the application; and

(ii) the consent authority, the applicant and any person who makes a submission under section 87 (1) of the Act in relation to the development application must, under section 101 (5) of the Act, be given the opportunity of a hearing if so required by any of them before the Minister determines the application; and

(iii) the Minister's determination is final and not subject to appeal.

(2) The period specified under subclause (1) (e) must include the period of 30 days following the day on which notice of the development application is first published in a newspaper under section 84 (1) (c) of the Act.

How is a section 84 notice exhibited on land?

56. A notice under section 84 (1) (b) of the Act:

(a) must be exhibited on the land to which the development application relates; and

(b) must be displayed on a signpost or board; and

(c) must be clear and legible; and

(d) must be headed in capital letters and bold type **"DEVELOPMENT PROPOSAL";** and

(e) must contain under that heading the following matters:

(i) a statement that the development application has been lodged;

(ii) the name of the applicant;

(iii) a brief description of the development application;

(iv) notice that the development application and the relevant environmental impact statement may be inspected at the places, on the dates and during the times specified in the notice, being the same places, dates and times specified in a notice under section 84 (1) (a) of the Act; and

(f) must, if practicable, be capable of being read from a public road, public place or public reserve.

How is notice given of a section 84 notice?

57. A notice under section 84 (1) (c) of the Act:

(a) must be published on at least 2 separate occasions; and

(b) must appear across 2 or 3 columns in the display section of the newspaper; and

(c) must be headed in capital letters and bold type **"DEVELOPMENT PROPOSAL";** and

(d) must contain the same matters as are required for a notice under section 84 (1) (a) of the Act.

Division 5—Public participation (advertised development)

Application of Division

58. This Division applies to advertised development.

What information must be contained in a section 84 notice?

59. (1) For the purposes of section 84 (4) of the Act, a notice referred to in section 84 (1) (a) of the Act must contain the following information:

(a) a description (including the address) of the land on which the development is proposed to be carried out;

(b) a description of the proposed development;

(c) a statement that the proposed development is not designated development;

(d) the name of the applicant and of the consent authority;

(e) a statement that the development application referred to in the notice and the documents accompanying the application may be inspected:

(i) at the consent authority's principal office; and

(ii) at the council's principal office (if the council is not the consent authority),

for a specified period during the relevant authority's ordinary office hours;

(f) a statement that:

(i) any person may, during the period specified under paragraph (e), make written submissions to the consent authority about the development application; and

(ii) if a submission is made by way of objection, the grounds of objection must be specified in the submission;

(g) if the proposed development is subject to a direction under section 101 of the Act, a statement that:

(i) the Minister will determine the application; and

(ii) the consent authority, the applicant and any person who makes a submission under section 87 (1) of the Act in relation to the development application must, under section 101(5) of the Act, be given the opportunity of a hearing if so required by any of them before the Minister determines the application; and

(iii) the Minister's determination is final and not subject to appeal.

(2) The period specified under subclause (1) (e) must include the period of 28 days following the day on which notice of the development application is first published in a newspaper under section 84 (1) (c) of the Act.

How is a section 84 notice exhibited on land?

60. A notice under section 84 (1) (b) of the Act:

(a) must be exhibited on the land to which the development application relates; and

(b) must be displayed on a signpost or board; and

(c) must be clear and legible; and

(d) must be headed in capital letters and bold type **"DEVELOPMENT PROPOSAL";** and

(e) must contain under that heading the following matters:

(i) a statement that the development application has been lodged;

(ii) the name of the applicant;

(iii) a brief description of the development application;

(iv) notice that the development application may be inspected at the places, on the dates and during the times specified in the notice, being the same places, dates and times specified in a notice under section 84 (1) (a) of the Act; and

(f) must, if practicable, be capable of being read from a public road, public place or public reserve.

How is notice given of a section 84 notice?

61. A notice under section 84(1)(c) of the Act:

(a) must be published in the public notices section of the newspaper; and

(b) must be headed in capital letters and bold type **"DEVELOPMENT PROPOSAL";** and

(c) must contain the same matters as are required for a notice under section 84(1)(a) of the Act.

Division 6—Public access

Consent authority may sell copies of environmental impact statement to the public

62. (1) Copies of an environmental impact statement may be sold by a consent authority to any member of the public for not more than $25 per copy.

(2) A consent authority:

(a) must pay the proceeds of sale to the applicant responsible for the preparation of the statement; and

(b) must return to the applicant any unsold copies of the statement.

Documents adopted or referred to by environmental impact statement

63. (1) Any document adopted or referred to by an environmental impact statement is taken to form part of the statement.

(2) Nothing in this Part requires the applicant responsible for the preparation of an environmental impact statement to supply any person with a document that is publicly available.

Division 7—General

Consent authority to provide development application forms to intending applicants

64. The consent authority must provide any person intending to make a development application with:

(a) copies of Form 1; and

(b) the consent authority's scale of fees for development applications; and

(c) if the consent authority has determined the fee to accompany a development application for the proposed development, advice of the mount determined.

What additional matters must a consent authority take into consideration in determining a development application?

65. For the purposes of section 90(1)(s) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application:

(a) whether adequate provision has been made to enable disabled persons to gain access to the development or to the land on which the development is proposed to be carried out;

(b) the Government Coastal Policy, in the case of development on land in the area of a council referred to in Schedule 1;

(c) the effect of the development on:

(i) any protected or endangered fauna (within the meaning of the National Parks and Wildlife Act 1974); and

(ii) the habitat of any such protected or endangered fauna,

and the means to be employed to protect them from harm, or to mitigate the harm, if the development is likely to cause them harm;

(d) whether the development will endanger any species of animal, plant or other form of life, whether living on land, in water or in the air.

Who are "prescribed persons" for the purposes of section 91A?

66. For the purposes of section 91A(1) of the Act, the following persons are prescribed:

(a) a public authority (not being a council);

(b) a public utility;

(c) an official university within the meaning of the Higher Education Act 1988;

(d) a TAFE establishment within the meaning of the Technical and Further Education Commission Act 1990;

(e) the Totalizator Agency Board.

Extracts of development applications to be publicly available

67. (1) This clause applies to all development other than designated development and advertised development.

(2) Extracts of a development application relating to the erection of a building:

(a) suficient to identify the applicant and the land to which the application relates; and

(b) containing a plan of the building that indicates its height and external configuration, as erected, in relation to the site on which it is to be erected,

are to be made available to interested persons, either free of charge or on payment of reasonable copying charges.

Note: The erection of a building is defined in the Act to include the rebuilding of, the making of structural alterations to, or the enlargement or extension of a building or the placing or relocating of a building on land.

PART 7—DEVELOPMENT CONSENTS

Division 1—Notices of determinations

What is the form for a section 92 notice?

68. (1) The prescribed form for a section 92 notice is Form 3.

(2) The notice must clearly identify the relevant development application by reference to its registered number.

How soon must a section 92 notice be sent?

69. (1) A section 92 notice must be sent to the applicant for development consent within 14 days after the date of the determination to which it relates.

(2) Failure to send the notice within that period does not affect the validity of the notice or the development consent (if any) to which it relates.

What additional particulars must be included in a section 92 notice with respect to section 94 conditions?

70. A section 92 notice concerning a development consent the subject of a section 94 condition must include the following particulars in addition to any other particulars it is required to contain:

(a) the specific public amenity or service in respect of which the condition is imposed;

(b) the contributions plan under which the condition is imposed;

(c) the address of the places where a copy of the contributions plan may be inspected.

What is the form for a section 95 notice?

71. (1) The prescribed form for a section 95 notice is:

(a) Form 4, for designated development; and

(b) Form 5, for advertised development.

(2) The notice must be given on the same day as the section 92 notice is given to the applicant.

Division 2—Lapsing of development consents

What is the form for an application for extension of a development consent?

72. An application under section 99 (4B) of the Act for the extension of time to commence development:

(a) must be in writing; and

(b) must identify the development consent to which it relates; and

(c) must indicate why the consent authority should extend the time.

What is the form for a section 99 notice to complete development?

73. A notice under section 99 (6) of the Act requiring completion of development within a specified time:

(a) must be in writing; and

(b) must indicate the consent authority's reasons for issuing the notice; and

(c) must notify the owner of the right of appeal given by section 99 (8) of the Act to a person aggrieved by the notice; and

(d) must notify the owner of the right under section 99 (10) of the Act to apply to the consent authority for an extension of the time specified in the notice; and

(e) must notify the owner of the right of appeal given by section 99 (11) of the Act to a person aggrieved by the consent authority's refusal or failure to grant an extension of time.

What is the form for an application for an extension of time to complete development?

74. An application under section 99(10) of the Act for an extension of time to complete development:

(a) must be made in writing to the consent authority; and

(b) must specify the period of the extension of time sought; and

(c) must indicate why the consent authority should extend the time.

Division 3—Modification of development consents

What is the form for an application for modification of a development consent?

75. The prescribed form for an application under section 102 (1) of the Act for modification of a development consent is Form 6.

Applications for modification of development consents granted by the Land and Environment Court

76. (1) For the purposes of section 102(1A) of the Act, the consent authority from whose decision the Land and Environment Court has granted a development consent on appeal is a prescribed person with which a copy of an application for modification of the consent must be lodged.

(2) In this clause, a reference to a consent authority does not include a reference to the council of the relevant area.

Note: The Land and Environment Court acts as a consent authority when it determines appeals from the decisions of other consent authorities. Under section 102 (1) of the Act, an application for modification of a development consent granted by the Court

(acting as a consent authority) must be made to the Court. If the original consent authority was the council of the relevant area, a copy of the application must, under section 102(1A) of the Act, be lodged with the council.

How is notice of an application for modification of a development consent given?

77. (1) Notice under section 102 (2) of the Act of an application for the modification of a development consent must be given:

(a) by the consent authority that granted the development consent (including the Minister acting as a consent authority as referred to in section 102(3) of the Act); or

(b) by the consent authority to which the original development application was made, in the case of a development consent granted by the Land and Environment Court on appeal.

(2) The notice must be in writing and must be given within 14 days after the application or a copy of that application is received by the consent authority required to give the notice.

(3) The notice:

(a) must contain a brief description of the development consent, the land to which the development consent relates and the details of the modification sought; and

(b) must state that written submissions about the proposed modification may be made to the consent authority within the period of 21 days following the date on which the notice is given; and

(c) must indicate the period during which the application may be inspected at the principal office of the consent authority giving the notice; and

(d) must state that, if the application is approved, there is no right of appeal by an objector under section 98 of the Act.

(4) The prescribed period for the purposes of section 102(2) of the Act (being the period within which a person's submissions about the proposed modification must be made to the consent authority) is the period of 21 days following the date on which notice is given to the person under this clause.

(5) The consent authority required to give notice of an application for modification of a development consent granted by the Land and Environment Court must notify the Court of the date on which the notice was given.

Applications for modifications of development consents to be kept available for public inspection

78. An application for the modification of a development consent must be made available at the consent authority's principal office for inspection, free of charge, during the consent authority's ordinary office hours.

Notice of determination of application to modify development consent

79. (1) Notice in writing of the determination of an application for the modification of a development consent must be given to the applicant as soon as practicable after the determination is made.

(2) If the determination is made by the granting of development consent subject to conditions or by refusing development consent, the notice:

(a) must indicate the consent authority's reasons for the imposition of the conditions or the refusal; and

(b) must state that the Act gives a right of appeal against the determination.

Modification or surrender of development consent or existing use right

80. (1) A modification or surrender of a development consent or existing use right must be in Form 7.

(2) A duly signed and delivered notice of modification or surrender of a development consent or existing use right:

(a) takes effect when it is received by the consent authority; and

(b) operates, according to its terms, to modify or surrender the development consent or existing use right to which it relates.

Division 4—General

What are the public notification procedures for the purposes of section 104A?

81. The granting of a development consent is publicly notified for the purposes of section 104A of the Act:

(a) if public notice in a local newspaper is given by the consent authority or, if the consent authority is not the council, by the consent authority or by the council; and

(b) if the notice describes the land and the development the subject of the development consent; and

(c) if the notice contains a statement that the development consent is available at the council's offices for public inspection, free of charge, during the council's ordinary office hours.

PART 8—ENVIRONMENTAL ASSESSMENT UNDER PART 5 OF THE ACT

Division 1—Circumstances requiring an environmental impact statement

What factors must be taken into account concerning the impact of an activity on the environment?

82. (1) For the purposes of Part 5 of the Act, the factors to be taken into account when consideration is being given to the likely impact of an activity on the environment include:

(a) for activities of a kind for which specific guidelines are in force under this clause, the factors referred to in those guidelines; or

(b) for any other kind of activity:

(i) the factors referred to in the general guidelines in force under this clause; or

(ii) if no such guidelines are in force, the factors referred to subclause (2).

(2) The factors referred to in subclause (1) (b) (ii) are as follows:

(a) any environmental impact on a community;

(b) any transformation of a locality;

(c) any environmental impact on the ecosystems of the locality;

(d) any reduction of the aesthetic, recreational, scientific or other environmental quality or value of a locality;

(e) any effect on a locality, place or building having aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific or social significance or other special value for present or future generations;

(f) any impact on the habitat of protected or endangered fauna (within the meaning of the National Parks and Wildlife Act 1974);

(g) any endangering of any species of animal, plant or other form of life, whether living on land, in water or in the air;

(h) any long-term effects on the environment;

(i) any degradation of the quality of the environment;

(j) any risk to the safety of the environment;

(k) any reduction in the range of beneficial uses of the environment;

(l) any pollution of the environment;

(m) any environmental problems associated with the disposal of waste;

(n) any increased demands on resources (natural or otherwise) that are, or are likely to become, in short supply;

(o) any cumulative environmental effect with other existing or likely future activities.

(3) For the purposes of this clause, the Director may establish guidelines for the factors to be taken into account when consideration is being given to the likely impact of an activity on the environment, in relation to activities generally or in relation to any particular kind of activity.

(4) The Director may vary or revoke any guidelines in force under this clause.

Division 2—Environmental impact statements

What is the form for an environmental impact statement?

83. The prescribed form for an environmental impact statement under section 112 of the Act is Form 8.

What must an environmental impact statement contain?

84. (1) The contents of an environmental impact statement must include:

(a) for activities of a kind for which specific guidelines are in force under this clause, the matters referred to in those guidelines; or

(b) for any other kind of activity:

(i) the matters referred to in the general guidelines in force under this clause; or

(ii) if no such guidelines are in force, the matters referred to in Schedule 2.

(2) For the purposes of this clause, the Director may establish guidelines for the preparation of environmental impact statements, in relation to activities generally or in relation to any specific kind of activity.

(3) The Director may vary or revoke any guidelines in force under this clause.

Director may make requirements concerning preparation of environmental impact statements

85. (1) The proponent responsible for preparing an environmental impact statement must consult with the Director and, in completing the statement, must have regard to the Director's requirements concerning:

(a) the form and content of the statement; and

(b) the availability of the statement for public comment.

(2) For the purposes of the consultation, the proponent must give the Director written particulars of the location, nature and scale of the activity.

(3) Written notice of the Director's requirements must be given to the proponent within 28 days after the consultations are completed or within a further time agreed between the Director and the proponent.

(4) Written notice of the Director's requirements must also be given to the relevant determining authority at the same time as it is given to the proponent.

(5) If the environmental impact statement is not exhibited within 2 years after the notice is given, the applicant must consult further with the Director in relation to the preparation of the statement.

(6) The Director may waive the requirement for consultation under this clause in relation to any particular activity or any particular kind of activity.

Determining authority may require additional copies of environmental impact statement

86. The determining authority may require the proponent of an activity to give it as many additional copies of the environmental impact statement as are reasonably required for the purposes of the Act.

Division 3—Public participation

How is notice given of the public exhibition of an environmental impact statement?

87. (1) Notice under section 113(1) of the Act of the places, dates and times where an environmental impact statement may be inspected:

(a) must be published in a daily newspaper circulating generally throughout the State and in a local newspaper; and

(b) must be published in each newspaper on at least 2 separate occasions; and

(c) must appear across 2 or 3 columns in the display section of the newspapers.

(2) The period of 30 days referred to in section 113(1) of the Act begins on:

(a) the date on which the notice is first published in the daily newspaper circulating generally throughout the State; or

(b) the date on which the notice is first published in the local newspaper,

whichever is the later.

(3) In addition to the matters required by section 113(1) of the Act, the notice must include the following matters:

(a) the following heading in capital letters and bold type:

"ASSESSMENT OF ENVIRONMENTAL IMPACT OF *(a title description of the proposed activity and its location)*— **PUBLIC EXHIBITION"**

(b) a brief description of the proposed activity and its locality;

(c) the name of the proponent;

(d) a statement of the places, dates and times for inspection of the environmental impact statement; and

(e) a statement that any person may, before the specified closing date, make written representations to the determining authority about the proposed activity.

Where may an environmental impact statement be inspected?

88. In addition to the places referred to in section 113 (1) of the Act, a determining authority must make copies of the relevant environmental impact statement available for public inspection, on the same dates and during the same times, at the following places:

(a) the principal office of the council in whose area the proposed activity is to be carried out;

(b) at least one of the offices of the Government Information Service of New South Wales;

(c) the Sydney office of the Environment Centre (New South Wales) Pty Ltd.

Division 4—Public access

Determining authority may sell copies of environmental impact statement to the public

89. (1) Copies of an environmental impact statement may be sold by a determining authority to any member of the public for not more than $25 per copy.

(2) A determining authority:

(a) must pay the proceeds of sale to the proponent responsible for the preparation of the statement; and

(b) must return to the proponent any unsold copies of the statement.

Documents adopted or referred to by environmental impact statement

90. (1) Any document adopted or referred to by an environmental impact statement is taken to form part of the statement.

(2) Nothing in this Part requires the proponent responsible for the preparation of an environmental impact statement to supply any person with a document that is publicly available.

Division 5—General

Report to be prepared where Minister's approval under section 115A not required

91. (1) A determining authority for an activity must prepare a report on any activity for which an environmental impact statement has been prepared.

(2) The report must be prepared as soon as practicable after a decision is made by the determining authority to carry out or refrain from carrying out the activity or to approve or disapprove the carrying out of the activity.

(3) The report must comment on, and have regard to, each of the following matters:

(a) the environmental impact statement;

(b) any representations duly made to it about the proposed activity;

(c) the effects of the proposed activity on the environment;

(d) the proponent's proposals to mitigate any adverse effects of the activity on the environment;

(e) the findings and recommendations of:

(i) any report given to it by the Director under section 113 of the Act; and

(ii) any advice given to it by the Minister under section 114 of the Act; and

(iii) any inquiry under section 119 of the Act,

with respect to the proposed activity.

(4) The report must also give full particulars of the determining authority's decision on the proposed activity and, if the authority has granted approval to the carrying out of the activity, any conditions or modifications imposed or required by the authority in connection with the carrying out of the activity.

(5) The determining authority must make the report public as soon as practicable after it has been completed and must send a copy of the report to the council of each area that is, or would have been, affected by the activity.

(6) The requirements of subclause (5):

(a) are subject to any prohibition or restriction arising from a direction under section 120(5)(b) of the Act, but to the extent only of the prohibition or restriction; and

(b) do not apply to an activity to which Division 4 of Part 5 of the Act applies.

PART 9—FEES AND CHARGES

Division 1—Fees for development applications

Fees not to exceed specified maximums

92. The fee for a development application must not exceed the maximum amount determined in accordance with this Division.

Development involving the erection of a building or the carrying out of a work

93. (1) The maximum fee payable for development:

(a) involving the erection of a building or the carrying out of a work; and

(b) having an estimated cost within a range specified in the Table to this clause,

is as calculated in accordance with that Table.

(2) The fees determined under this clause do not apply to development for which a fee is payable under clause 94 or 95.

TABLE

Estimated cost	Maximum fee payable
Less than $250,000	$150, plus an additional $3 for each $l,000 (or part of $1,000) of the estimated cost
$250,000—$500,000	$900, plus an additional $1.50 for each $1,000 (or part of $1,000 by which the estimated cost exceeds $250.000
$500,000—$1,000,000	$1,275, plus an additional $1 for each $l,000 (or part of $1,000) by which the estimated cost exceeds $500,000
$1,000,000—$10,000,000	$1,775, plus an additional $0.75 for each $l,000 (or part of $1,000) by which the estimated cost exceeds $1,000,000
More than $10,000,000	$8,525, plus an additional $0.50 for each $1,000 (or part of $1,000) by which the estimated cost exceeds $10,000,000

Development involving the erection of a dwelling-house with an estimated construction cost of $100,000 or less

94. A maximum fee of $100 is payable for development consisting of the erection of a dwelling-house whose estimated cost of construction is $100,000 or less.

Development involving the erection of a hospital, school or police station by a public authority

95. (1) A maximum fee of $100 is payable for development consisting of the erection of a hospital, school or police station, but only if the development application is made by a public authority.

(2) The consent authority is entitled to be reimbursed by the public authority to the extent to which the fee does not reimburse it for its costs in dealing with the application.

(3) The amount payable by the public authority is to be determined by agreement between the consent authority and the public authority, but must not exceed the maximum fee that would be applicable for an application made otherwise than by a public authority.

Development involving the subdivision of land

96. A maximum fee of $150 is payable for development consisting of the subdivision of land, together with an additional fee of $25 for each lot created by the subdivision.

Note: For example, the maximum total fee to accompany an application for consent to the subdivision of land into 12 allotments (that is, there will be 12 allotments on the land after the land is subdivided) will be $450.

Development not involving the erection of a building, the carrying out of a work or the subdivision of land

97. A maximum fee of $150 is payable for development that does not involve the erection of a building, the carrying out of a work or the subdivision of land.

Minimum fee for designated development

98. Despite any other provision of this Division, a consent authority may charge a minimum fee of $500 for designated development.

What additional fees are payable for development that requires advertising?

99. (1) In addition to any other fees payable under this Division, a consent authority may charge up to the following maximum fees for the giving of the notice required for the development:

(a) $1,500, in the case of designated development;

(b) $750, in the case of advertised development;

(c) $750, in the case of prohibited development (within the meaning of section 100A of the Act);

(d) $750, in the case of development for which an environmental planning instrument requires notice to be given otherwise than as referred to in paragraph (a), (b) or (c).

(2) The consent authority must refund so much of the fee paid under this clause as is not spent in giving the notice.

What if 2 or more fees are applicable to a single development application?

100. If 2 or more fees are applicable to a single development application (such as an application to subdivide land and erect a building on one or more of the lots created by the subdivision), the maximum fee payable for the development is the sum of those fees.

How is a fee based on estimated costs to be determined?

101. (1) In determining the fee for development consisting of the erection of a building or the carrying out of a work, the consent authority must make its determination by reference to a genuine estimate of the construction costs of the building or work.

(2) The estimate must, unless the consent authority is satisfied that the estimated cost indicated in the development application is neither genuine nor accurate. be the estimate so indicated.

Determination of fees after development applications have been made

102. (1) The determination of a fee to accompany a development application must be made before, or within 14 days after, the application is lodged with the consent authority.

(2) A determination made after the lodging of a development application has no effect until notice of the determination is given to the applicant.

(3) A consent authority may refuse to consider a development application for which a fee has been duly determined and notified to the applicant but remains unpaid.

Division 2—Other fees and charges

What is the fee for an application for the modification of a development consent?

103. (1) The maximum fee for an application under section 102 of the Act for the modification of a development consent is:

(a) if the fee for the original development application was less than $100, 30 per cent of that fee; or

(b) in any other case, $100 or 30 per cent of the fee for the original development application, whichever is the greater,

plus an additional amount of not more than $500 if notice of the application is required to be given under section 102 (2) of the Act.

(2) The consent authority must refund so much of the additional amount as is not spent in giving the notice.

(3) In this clause:

(a) a reference to an original development application is a reference to the development application that resulted in the granting of the development consent proposed to be modified; and

(b) a reference to the fee for the original development application does not include a reference to any fee under clause 99 that was payable for the giving of notice.

(4) This clause does not apply to an application for the modification of a development consent granted by the Land and Environment Court on appeal from some other consent authority.

Note: The Land and Environment Court (Fees) Regulation 1994 provides for the payment of fees in connection with applications made to the Land and Environment Court under section 102 of the Act.

What is the fee for a section 149 certificate?

104. (1) The prescribed fee for the issue of a certificate under section 149 of the Act is $40.

(2) The council may charge one additional fee of not more than $60 for any advice given under section 149 (5) of the Act.

What is the fee for a certified copy of a document, map or plan held by the Department or a council?

105. The prescribed fee for a certified copy of a document, map or plan referred to in section 150 (2) of the Act is $40.

What other fees and charges may be imposed under the Act?

106. The maximum charge or fee that may be imposed under section 137 (1) of the Act is:

(a) the amount determined by the Director (either generally or in any particular case or class of cases), having regard to the cost to the Minister. corporation, Department or Director of doing anything referred to in that subsection; or

(b) if there is no relevant determination in force, 120 per cent of the cost to the Minister, corporation, Department or Director of doing anything referred to in that subsection.

PART 10—REGISTER OF DEVELOPMENT APPLICATIONS

Council to maintain a register of development applications

107. (1) A council must maintain a register containing details of the following matters for each development application:

(a) the registered number of the application;

(b) the date when the application was made;

(c) the amount of any fee payable in connection with the application;

(d) the date or dates when any such fee, or any part of any such fee, was paid;

(e) the date when the application was determined by the council.

(2) The register must also contain details of the following matters for each development consent:

(a) the name and address of the person to whom the consent was granted;

(b) the address of the land to which the consent relates;

(c) the date when the consent was granted;

(d) a brief description of the subject-matter of the consent;

(e) a statement of the classification (residential, commercial, industrial or other) appropriate to the nature of the development to which the consent relates;

(f) any conditions to which the consent is subject;

(g) the duration of the consent;

(h) the date when the consent became effective;

(i) whether the consent has been revoked, modified or surrendered;

(j) the date when any notice was published in respect of the consent as referred to in section 104A of the Act.

(3) The register must contain the following indexes of the development consents referred to in subclause (2):

(a) an index prepared by reference to the address of the land to which each development consent relates;

(b) an index prepared by reference to the chronological order of the granting of each development consent.

(4) The register is to be kept in the form of a book, in loose-leaf form, or in the form of an electronic data retrieval system.

(5) To the extent to which this clause imposes requirements additional to those imposed by the Environmental Planning and Assessment Regulation 1980, the additional requirements need not be complied with before 1 March 1995.

Council to keep certain documents

108. A council must keep the following documents for each development application made to it and each development consent resulting from a development application made to it:

(a) a copy of the development application;

(b) a copy of the relevant section 92 notice;

(c) a copy of any instrument by which some other development consent or existing use right has been modified or surrendered;

(d) a copy of the decision of the Land and Environment Court, in the case of a development consent granted by the Court on appeal from the determination of the council;

(e) a copy of the Minister's determination of the application, in the case of an application determined by the Minister under section 101 of the Act;

(f) a copy of any recommendations made by relevant employees of the council with respect to the determination of the application;

(g) if the development consent has been revoked, modified or surrendered, a copy of the instrument of revocation, modification or surrender;

(h) if a notice has been published in respect of the development consent as referred to in section 104A of the Act, a copy of the page of the newspaper in which the notice was published.

Council to keep certain records available for public inspection

109. (1) A council must make the following documents available for inspection at its principal office, free of charge, during the council's ordinary office hours:

(a) the register kept under clause 107;

(b) the documents kept under clause 108.

(2) The register kept under clause 107 is the register of consents under section 104 of the Act to the extent to which it relates to the details referred to in clause 107 (2).

PART 11—MISCELLANEOUS

Notice of proposal to constitute development area

110. A notification under section 132 (4) of the Act of the Director's proposal to include the whole or any part of a council's area in a development area must be given by instrument in writing posted or delivered to the councils concerned.

Assessment of loan commitments of councils in development areas

111. (1) Any assessment to be made on a council under section 143 (1) of the Act is to be made in accordance with the following formula:

$$\text{Contribution} = \text{Total assessment} \times \frac{\text{Rateable value of council}}{\text{(Rateable value of all councils)}}$$

where:

Contribution represents the amount to be contributed by the council;

Total assessment represents the total assessment for the development area, as referred to in section 143 (1) of the Act;

Rateable value of council represents the value shown in the statement given by the council in relation to the assessment payable during the calendar year ending 31 December 1990 in respect of rateable land in the area or part of the area of the council;

Rateable value of all councils represents the total of the values shown in the statements given by all councils in the development area in relation to the assessment payable during the calendar year ending 31 December 1990 in respect of all rateable land in the areas or parts of the areas of all such councils.

(2) The corporation is not obliged to notify a council of its intention to make an assessment, but (if an assessment is made) must serve notice of the assessment on each relevant council.

(3) The notice must be served:

(a) on or before 1 October 1994, if the assessed amount is to be paid during the 6 month period ending 30 June 1995; and

(b) on or before 1 April before the financial year in which the assessed amount is to be paid, in any other case.

(4) For the purposes of section 143 (4) of the Act, the prescribed day is the day occurring 3 months after notice of the assessment is served on the council.

What matters must be specified in a section 149 certificate?

112. The prescribed matters to be specified in a certificate under section 149 (2) of the Act are the matters set out in Schedule 4.

Secretary may certify certain documents

113. The Secretary is a prescribed officer for the certification of documents under section 150 (1) of the Act.

Appointment of alternate members for certain committees

114. (1) A member of a committee established under Division 5 of Part 2 of the Act may at any time appoint, as an alternate member to act during the absence or illness of the member, a person qualified or nominated under the Act in the same manner (if any) as the person for whom the member is the alternate member.

(2) While acting as a member of a committee, an alternate member may exercise the functions of the person for whom the member is the alternate member.

False or misleading statements

115. A person is guilty of an offence if the person makes any statement, knowing it to be false or misleading in an important respect, in or in connection with any document lodged with a consent authority for the purposes of the Act or this Regulation.

Repeal, savings and transitional

116. (1) The Environmental Planning and Assessment Regulation \ is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the Environmental Planning and Assessment Regulation 1980, had effect under that Regulation is taken to have effect under this Regulation.

SCHEDULE 1—AREAS AFFECTED BY GOVERNMENT COASTAL POLICY

(Cl. 65, Dictionary)

Ballina
Bega Valley
Bellingen
Byron
Coffs Harbour
Eurobodalla
Gosford
Great Lakes
Greater Taree
Hastings
Kempsey
Kiama
Lake Macquarie
Maclean
Nambucca
Port Stephens
Richmond River
Shellharbour
Shoalhaven
Tweed
Ulmarra
Wyong

SCHEDULE 2—ENVIRONMENTAL IMPACT STATEMENTS

(Cll. 51, 84)

1. A summary of the environmental impact statement.

2. A statement of the objectives of the development or activity.

3. An analysis of any feasible alternatives to the carrying out of the development or activity, having regard to its objectives, including:

(a) the consequences of not carrying out the development or activity; and

(b) the reasons justifying the carrying out of the development or activity.

4. An analysis of the development or activity, including:

(a) a full description of the development or activity; and

(b) a general description of the environment likely to be affected by the development or activity, together with a detailed description of those aspects of the environment that are likely to be significantly affected; and

(c) the likely impact on the environment of the development or activity, having regard to:

(i) the nature and extent of the development or activity; and

(ii) the nature and extent of any building or work associated with the development or activity; and

(iii) the way in which any such building or work is to be designed. constructed and operated; and

(iv) any rehabilitation measures to be undertaken in connection with the development or activity; and

(d) a full description of the measures proposed to mitigate any adverse effects of the development or activity on the environment.

5. The reasons justifying the carrying out of the development or activity in the manner proposed, having regard to biophysical, economic and social considerations and the principles of ecologically sustainable development.

6. A compilation (in a single section of the environmental impact statement) of the measures referred to in item 4 (d).

7. A list of any approvals that must be obtained under any other Act or law before the development or activity may lawfully be carried out.

8. For the purposes of this Schedule, **"the principles of ecologically sustainable development"** are as follows:

(a) The precautionary principle—namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

(b) Inter-generational equity—namely. that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

(c) Conservation of biological diversity and ecological integrity.

(d) Improved valuation and pricing of environmental resources.

Note: The matters to be included in item 4 (c) might include such of the following as are relevant to the development or activity:

(a) the likelihood of soil contamination arising from the development or activity;

(b) the impact of the development or activity on flora and fauna;

(c) the likelihood of air, noise or water pollution arising from the development or activity;

(d) the impact of the development or activity on the health of people in the neighbourhood of the development or activity;

(e) any hazards arising from the development or activity;

(f) the impact of the development or activity on traffic in the neighbourhood of the development or activity;

(g) the effect of the development or activity on local climate;

(h) the social and economic impact of the development or activity;

(i) the visual impact of the development or activity on the scenic quality of land in the neighbourhood of the development or activity;

(j) the effect of the development or activity on soil erosion and the silting up of rivers or lakes;

(k) the effect of the development or activity on the cultural and heritage significance of the land.

SCHEDULE 3—DESIGNATED DEVELOPMENT

(Cl. 49)

PART 1—WHAT IS DESIGNATED DEVELOPMENT?

Development for the undermentioned purposes or development of the undermentioned types is designated development:

Agricultural produce industries that process agricultural produce (including dairy products. seeds, fruit, vegetables or other plant material) and:

(1) crush, juice, grind, mill or separate more than 30,000 tonnes of produce per annum; or

(2) release effluent, sludge or other waste:

(a) in or within 100 metres of a natural waterbody or wetlands; or

(b) in an area of:

(i) high watertable; or

(ii) highly permeable soils; or

(iii) acid sulphate, sodic or saline soils.

Aircraft facilities (including terminals, buildings for the parking, servicing or maintenance of aircraft, installations or movement areas) for the landing, taking-off or parking of aeroplanes, seaplanes or helicopters, if the facilities:

(1) in the case of seaplane or aeroplane facilities:

(a) cause a significant environmental impact or significantly increase the environmental impacts as a result of

(i) the number of flight movements (including taking-off or landing); or

(ii) the maximum take-off weight of aircraft capable of using the facilities; and

(b) are located so that the whole or part of a residential zone, a school or hospital is within:

(i) the 20 ANEF contour map approved by the Civil Aviation Authority of Australia; or

(ii) 5 kilometres of the facilities if no ANEF contour map has been approved; or

(2) in the case of helicopter facilities (other than facilities used exclusively for emergency aeromedical evacuation, retrieval or rescue):

(a) have an intended use of more than 7 helicopter flight movements per week (including taking-off or landing); and

(b) are located within 1 kilometre of a dwelling not associated with the facilities; or

(3) in the case of any facilities, are located:

(a) so as to disturb more than 20 hectares of native vegetation by clearing; or

(b) within 40 metres of an environmentally sensitive area; or

(c) within 40 metres of a natural waterbody (if other than seaplane or helicopter facilities).

Aquaculture or mariculture for the commercial production (breeding. hatching, rearing or cultivation) of marine, estuarine or fresh water organisms, including aquatic plants or animals (such as fin fish, crustaceans, molluscs or other aquatic invertebrates), involving:

(1) supplemental feeding in:

(a) tanks or artificial waterbodies:

(i) located in areas of:

- high watertable; or
- acid sulphate soils; or

(ii) with a total water storage area of more than 2 hectares or a total water volume of more than 40 megalitres:

- located on a floodplain; or
- that release effluent or sludge into a natural waterbody or wetlands or into groundwater; or

(iii) with a total water storage area of more than 10 hectares or a total water volume of more than 400 megalitres; or

(b) any other waterbody (except for mal projects that operate for a maximum period of 2 years and are approved by the Director of NSW Fisheries); or

(2) farming of species not indigenous to New South Wales located:

(a) in or within 500 metres of a natural waterbody or wetlands; or

(b) on a floodplain; or

(3) establishment of new areas for lease under the Fisheries and Oysters Farms Act 1935 or the Fisheries Management Act 1994:

(a) with a total area of more than 10 hectares and that in the opinion of the consent authority. are likely to cause significant impacts:

(i) on the habitat value or the scenic value; or

(ii) on the amenity of the waterbody by obstructing or restricting navigation, fishing or recreational activities; or

(iii) because other leases are within 500 metres; or

(b) with a total area of more than 50 hectares.

Artificial waterbodies

(1) with a maximum aggregate surface area of water of more than 0.5 hectares located:

(a) in or within 40 metres of a natural waterbody. wetlands or an environmentally sensitive area; or

(b) in an area of

(i) high watertable; or

(ii) acid sulphate, sodic or saline soils; or

(2) with a maximum aggregate surface area of water of more than 20 hectares or a maximum total water volume of more than 800 megalitres; or

(3) if more than 30,000 cubic metres per annum of material is to be removed from the site.

Bitumen pre-mix and hot-mix industries where crushed or ground rock is mixed with bituminous or asphaltic materials and that:

(1) have an intended production capacity of more than 150 tonnes per day or 30,000 tonnes per annum; or

(2) are located:

(a) within 100 metres of a natural waterbody or wetlands; or

(b) within 250 metres of a residential zone or dwelling not associated with the development.

This designation of bitumen pre-mix and hot-mix industries does not include bitumen plants located on or adjacent to a construction site exclusively providing material to the development being carried out on that site:

(a) for a period of less than 12 months; or

(b) for which the environmental impacts were previously assessed in an environmental impact statement prepared for the development.

Breweries or distilleries that produce alcohol or alcoholic products and:

(1) have an intended production capacity of more than 30 tonnes per day or 10,000 tonnes per annum; or

(2) are located within 500 metres of a residential zone and are likely, in the opinion of the consent authority, to significantly affect the amenity of the neighbourhood by reason of odour, traffic or waste; or

(3) release effluent or sludge:

(a) in or within 100 metres of a natural waterbody or wetlands; or

(b) in an area of:

(i) high watertable; or

(ii) highly permeable soils; or

(iii) acid sulphate. sodic or saline soils.

Cement works that manufacture portland or other special purpose cement and:

(1) burn, sinter or heat (until molten) calcareous, argillaceous or other materials; or

(2) grind clinker or compound cement with an intended processing capacity of more than 150 tonnes per day or 30,000 tonnes per annum; or

(3) are located:

(a) within 100 metres of a natural waterbody or wetlands; or

(b) within 250 metres of a residential zone or a dwelling not associated with the development.

Ceramic or glass industries that manufacture through a firing process bricks, tiles, pipes, pottery, ceramics, refractories or glass and:

(1) have an intended production capacity of more than 150 tonnes per day or 30,000 tonnes per annum; or

(2) are located:

(a) within 40 metres of a natural waterbody or wetlands; or

(b) within 250 metres of a residential zone or dwelling not associated with the development.

Chemical industries or works for the commercial production of, or research into, chemical substances at:

(1) the following industries or works:

(a) **agricultural fertiliser industries** that produce more than 20,000 tonnes per annum of inorganic plant fertilisers; or

(b) **battery industries** that manufacture or reprocess batteries containing acid or alkali and metal plates and use or recover more than 30 tonnes of metal per annum; or

(c) **explosive and pyrotechnics industries** that manufacture explosives for purposes including industrial, extractive industries and mining uses, ammunition. fireworks or fuel propellents; or

(d) **paints, paint solvents, pigments and dyes, printing inks, industrial polishes, adhesives and sealants manufacturing industries** that manufacture more than 5,000 tonnes per annum of products; or

(e) **petrochemical industries** that manufacture more than 2,000 tonnes per annum of petrochemicals and petrochemical products; or

(f) **pesticides, fungicides, herbicides, rodenticides, nematocides, miticide, fumigants and related products** industries that:

(i) manufacture materials classified as poisonous in the Australian Dangerous Goods Code; or

(ii) manufacture (excluding simple blending) more than 2,000 tonnes per annum of products; or

(g) **pharmaceutical and veterinary products industries** that manufacture or use materials classified as poisonous in the Australian Dangerous Goods Code; or

(h) **plastics industries** that:

(i) manufacture more than 2,000 tonnes per annum of synthetic plastic resins; or

(ii) reprocess more than 5,000 tonnes of plastics per annum other than by a simple melting and reforming process; or

(i) **rubber** industries or works that:

(i) manufacture more than 2,000 tonnes per annum of synthetic rubber; or

(ii) manufacture, retread or recycle more than 5,000 tonnes per annum of rubber products or rubber tyres; or

(iii) dump or store (otherwise than in a building) more than 10 tonnes of used rubber tyres; or

(j) **soap and detergent industries** (including domestic, institutional or industrial soaps or detergent industries) that manufacture:

(i) more than 100 tonnes per annum of products containing substances classified as poisonous in the Australian Dangerous Goods Code; or

(ii) more than 5,000 tonnes per annum of products (excluding simple blending); or

(2) industries or works:

(a) that manufacture, blend, recover or use substances classified as explosive, poisonous or radioactive in the Australian Dangerous Goods Code; or

(b) that manufacture or use more than 1,000 tonnes per annum of substances classified (but other than as explosive, poisonous or radioactive) in the Australian Dangerous Goods Code; or

(c) that crush, grind or mill more than 10,000 tonnes per annum of chemical substances; or

(3) industries or works located:

(a) within 40 metres of a natural waterbody or wetlands; or

(b) in an area of

(i) high watertable; or

(ii) highly permeable soil; or

(c) in a drinking water catchment; or

(d) on a floodplain.

This designation of chemical industries or works does not include:

(a) chemical industries or works where chemical substances listed in the NSW Dangerous Goods Regulation 1978 are stored in quantities below the licence level set out in that Regulation; or

(b) development specifically listed elsewhere in this Schedule.

Chemical storage facilities that:

(1) store or package chemical substances in containers, bulk storage facilities, stockpiles or dumps with a total storage capacity in excess of

(a) 20 tonnes of pressurised gas; or

(b) 200 tonnes of liquefied gases; or

(c) 2,000 tonnes of any chemical substances; or

(2) are located:

(a) within 40 metres of a natural waterbody or wetlands; or

(b) in an area of:

(i) high watertable; or

(ii) highly permeable soil; or

(c) in a drinking water catchment; or

(d) on a floodplain.

Coal mines that mine, process or handle coal and are:

(1) underground mines; or

(2) open cut mines that:

(a) produce or process more than 500 tonnes of coal or carbonaceous material per day; or

(b) disturb or will disturb a total surface area of more than 4 hectares of land (associated with a mining lease or mineral claim or subject to a section 8 notice under the Mining Act 1992) by:

(i) clearing or excavating; or

(ii) constructing dams, ponds, drains, roads, railways or conveyors; or

(iii) storing or depositing overburden, coal or carbonaceous material or tailings; or

(3) located:

(a) in or within 40 metres of a natural waterbody, wetlands, a drinking water catchment or an environmentally sensitive area; or

(b) within 200 metres of a coastline; or

(c) on land that slopes at more than 18 degrees to the horizontal; or

(d) if involving blasting, within:

(i) 1,000 metres of a residential zone; or

(ii) 500 metres of a dwelling not associated with the mine.

This designation of coal mines does not include continued coal mines within the meaning of State Environmental Planning Policy No. 37—Continued Mines and Extractive Industries in respect of which an application for development consent has been made before the end of the moratorium period prescribed under that Policy.

Coal works that store and handle coal or carbonaceous material (including any coal loader, conveyor, washery or reject dump) at an existing coal mine or on a separate coal industry site, and:

(1) handle more than 500 tonnes per day of coal or carbonaceous material; or

(2) store more than 5,000 tonnes of coal, except where the storage is within a closed container or a closed building; or

(3) store or deposit more than 5,000 tonnes of carbonaceous reject material; or

(4) are located in or within 40 metres of a natural waterbody, wetlands, a drinking water catchment or an environmentally sensitive area.

Concrete works that produce pre-mixed concrete or concrete products and:

(1) have an intended production capacity of more than 150 tonnes per day or 30,000 tonnes per annum of concrete or concrete products; or

(2) are located:

(a) within 100 metres of a natural waterbody or wetlands; or

(b) within 250 metres of a residential zone or dwelling not associated with the development.

This designation of concrete works does not include concrete works located on or adjacent to a construction site exclusively providing material to the development carried out on that site:

(a) for a period of less than 12 months; or

(b) for which the environmental impacts were previously assessed in an environmental impact statement prepared for that development.

Contaminated soil treatment works for on-site or off-site treatment (including. in either case, incineration or storage of contaminated soil, but excluding excavation for treatment at another site) that:

(1) treat contaminated soil containing substances classified as poisonous in the Australian Dangerous Goods Code and are located:

(a) within 100 metres of a natural waterbody or wetlands; or

(b) in an area of:

(i) high watertable; or

(ii) highly permeable soils; or

(c) within a drinking water catchment; or

(d) on land that slopes at more than 6 degrees to the horizontal; or

(e) on a floodplain; or

(f) within 100 metres of a dwelling not associated with the development; or

(2) treat more than 1,000 cubic metres per annum of contaminated soil not originating from the site on which the development is located; or

(3) treat contaminated soil originating exclusively from the site on which the development is located and:

(a) incinerate more than 1,000 cubic metres per annum of contaminated soil; or

(b) treat (otherwise than by incineration) or store more than 30,000 cubic metres of contaminated soil; or

(c) disturb more than an aggregate area of 3 hectares of contaminated soil.

Crushing, grinding or separating works that process materials including sand, gravel, rock, minerals or materials for recycling or reuse, including slag. road base or demolition material (such as concrete, bricks, tiles, asphaltic material, metal or timber) by crushing, grinding or separating into different sizes, and that:

(1) have an intended processing capacity of more than 150 tonnes per day or 30,000 tonnes per annum; or

(2) are located:

(a) within 40 metres of a natural waterbody or wetlands; or

(b) within 250 metres of a residential zone or dwelling not associated with the development.

This designation of crushing, grinding or separating works does not include development specifically listed elsewhere in this Schedule.

Drum or container reconditioning works that recondition. recycle or store:

(1) packaging containers (including metal, plastic or glass drums, bottles or cylinders) previously used for the transport or storage of substances classified as poisonous or radioactive in the Australian Dangerous Goods Code; or

(2) more than 100 metal drums per day, unless the works (including associated drum storage) are wholly contained within a building.

Electricity generating stations, including associated water storage, ash or waste management facilities, that supply or are capable of supplying:

(1) electrical power where:

(a) the associated water storage facilities inundate land identified as wilderness under the Wilderness Act 1987; or

(b) the temperature of the water released from the generating station into a natural waterbody is more than 2 degrees centigrade from the ambient temperature of the receiving water; or

(2) more than 1 megawatt of hydroelectric power requiring a new dam, weir or inter-valley transfer of water; or

(3) more than 30 megawatts of electrical power from other energy sources (including coal, gas, bio-material or solar powered generators, hydroelectric stations on existing dams or co-generation).

This designation of electricity generating stations does not include power generation facilities used exclusively for stand-by power purposes for less than 4 hours per week averaged over any continuous 3-month period.

Extractive industries that obtain extractive materials by methods including excavating, dredging. tunnelling or quarrying or that store, stockpile or process extractive materials by methods including washing, crushing, sawing or separating and:

(1) obtain or process for sale, or reuse, more than 30,000 cubic metres of extractive material per annum; or

(2) disturb or will disturb a total surface area of more than 2 hectares of land by:

(a) clearing or excavating; or

(b) constructing dams, ponds, drains, roads or conveyors; or

(c) storing or depositing overburden. extractive material or tailings; or

(3) are located:

(a) in or within 40 metres of a natural waterbody, wetlands or an environmentally sensitive area; or

(b) within 200 metres of a coastline; or

(c) in an area of:

(i) contaminated soil; or

(ii) acid sulphate soil; or

(d) on land that slopes at more than 18 degrees to the horizontal; or

(e) if involving blasting, within:

(i) 1,000 metres of a residential zone; or

(ii) 500 metres of a dwelling not associated with the development; or

(f) within 500 metres of the site of another extractive industry that has operated during the last 5 years.

This designation of extractive industries does not include:

(a) extractive industries on land to which the following environmental planning instruments apply:

(i) Sydney Regional Environmental Plan No. 11—Penrith Lakes Scheme;

(ii) Western Division Regional Environmental Plan No. 1—Extractive Industries; or

(b) maintenance dredging involving the removal of less than 1,000 cubic metres of alluvial material from oyster leases, sediment ponds or dams, artificial wetlands or deltas formed at stormwater outlets, drains or the junction of creeks with rivers provided that:

(i) the extracted material does not include contaminated soil or acid sulphate soil; or

(ii) any dredging operations do not remove any seagrass or native vegetation; or

(iii) there has been no other dredging within 500 metres during the past 5 years; or

(c) extractive industries undertaken in accordance with a plan of management (such as river, estuary, land or water management plans) provided that:

(i) the plan is:

- prepared in accordance with guidelines approved by the Director of Planning and includes consideration of cumulative impacts, bank and channel stability, flooding. ecology and hydrology of the area to which the plan applies; and
- approved by a public authority and adopted by the consent authority; and
- reviewed every 5 years; and

(ii) less than 1,000 cubic metres of extractive material is removed from any potential extraction site that is specifically described in the plan; or

(2) continued operations within the meaning of State Environmental Planning Policy No. 37—Continuted Mines and Extractive Industries in respect of which an application for development consent has been made before the end of the moratorium period prescribed under that Policy; or

(e) the excavation of contaminated soil for treatment at another site; or

(f) artificial waterbodies, contaminated soil treatment works, turf farms, or waste management facilities or works, specifically listed elsewhere in this Schedule.

Limestone mines or works that mine, process or handle limestone or limestone products, being:

(1) **limestone mines** that mine or process limestone from the mine and:

(a) disturb or will disturb a total surface area of more than 2 hectares of land (associated with a mining lease or mineral claim or subject to a section 8 notice under the Mining Act 1992) by:

(i) clearing or excavating; or

(ii) constructing dams, ponds, drains, roads, railways or conveyors; or

(iii) storing or depositing overburden, limestone or its products or tailings; or

(b) are located:

(i) in or within 40 metres of a natural waterbody. wetlands, a drinking water catchment or an environmentally sensitive area; or

(ii) if involving blasting, within:

- 1,000 metres of a residential zone; or
- 500 metres of a dwelling not associated with the mine; or

(iii) within 500 metres of another mining site that has operated within the past 5 years.

(2) **lime works** (not associated with a mine) that:

(a) crush, screen, burn or hydrate more than 150 tonnes per day, or 30,000 tonnes per annum, of material; or

(b) are located:

(i) within 100 metres of a natural waterbody or wetlands; or

(ii) within 250 metres of a residential zone or a dwelling not associated with the development.

This designation of limestone mines or works does not include continued mines within the meaning of State Environmental Planning Policy No. 37—Continued Mines and Extractive Industries in respect of which an application for development consent has been made before the end of the moratorium period prescribed under that Policy.

Livestock intensive industries, being:

(1) **feedlots** that accommodate in a confinement area and rear or fatten (wholly or substantially) on prepared or manufactured feed, more than 1,000 head of cattle, 4,000 sheep or 400 horses (excluding facilities for drought or similar emergency relief); or

(2) **piggeries** that:

(a) accommodate more than 200 pigs or 20 breeding sows and are located:

(i) within 100 metres of a natural waterbody or wetlands; or

(ii) in an area of:

- high watertable; or
- highly permeable soils; or
- acid sulphate, sodic or saline soils; or

(iii) on land that slopes at more than 6 degrees to the horizontal; or

(iv) within a drinking water catchment; or

(v) on a floodplain; or

(vi) within 5 kilometres of a residential zone and, in the opinion of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, odour, dust, traffic or waste; or

(b) accommodate more than 2,000 pigs or 200 breeding sows; or

(3) **poultry farms** for the commercial production of birds (such as domestic fowls, turkeys, ducks, geese. game birds and emus), whether as meat birds, layers or breeders and whether as free range or shedded birds, that are located:

(a) within 100 metres of a natural waterbody or wetlands; or

(b) within a drinking water catchment; or

(c) within 500 metres of another poultry farm; or

(d) within 500 metres of a residential zone or 150 metres of a dwelling not associated with the development and, in the opinion of the consent authority, having regard to topography and local meteorological conditions. are likely to significantly affect the amenity of the neighbourhood by reason of noise, odour, dust, lights, traffic or waste.

Livestock processing industries, being industries for the commercial production of products derived from the slaughter of animals or the processing of skins or wool of animals that:

(1) slaughter animals (including poultry) with an intended processing capacity of more than 3,000 kilograms live weight per day; or

(2) manufacture products derived from the slaughter of animals, including:

(a) tanneries or fellmongeries; or

(b) rendering or fat extraction plants with an intended production capacity of more than 200 tonnes per annum of tallow, fat or their derivatives or proteinaceous matter; or

(c) plants with an intended production capacity of more than 5,000 tonnes per annum of products (including hides, adhesives, pet feed, gelatine. fertiliser or meat products); or

(3) scour, top or carbonise greasy wool or fleeces with an intended production capacity of more than 200 tonnes per annum; or

(4) are located:

(a) within 100 metres of a natural waterbody or wetlands; or

(b) in an area of:

(i) high watertable; or

(ii) highly permeable soils; or

(iii) acid sulphate, sodic or saline soils; or

(c) on land that slopes at more than 6 degrees to the horizontal; or

(d) within a drinking water catchment; or

(e) on a floodplain; or

(f) within 5 kilometres of a residential zone and, in the opinion of the consent authority, having regard to topography and local meteorological conditions. are likely to significantly affect the amenity of the neighbourhood by reason of noise, odour, dust, lights, traffic or waste.

Marinas or other related land and water shoreline facilities that:

(1) moor, park or store vessels (excluding rowing boats, dinghies or other small craft) at fixed or floating berths, at freestanding moorings. alongside jetties or pontoons, within dry storage stacks or on cradles on hardstand areas:

(a) with an intended capacity of 30 or more vessels and:

(i) are located:

- in non-tidal waters; or
- within 100 metres of wetlands or an aquatic reserve; or

(ii) require the construction of a groyne or annual maintenance dredging; or

(iii) the ratio of car park spaces to vessels is less than 0.51; or

(b) with a intended capacity of 80 or more vessels; or

(2) repair or maintain vessels out of the water (including slipways, hoists or other facilities) with an intended capacity of:

(a) one or more vessel 25 metres or longer; or

(b) 5 or more vessels at any one time.

Mineral processing or metallurgical works for the commercial production or extraction of ores (using methods including chemical, electrical, magnetic, gravity or physico-chemical) or the refinement, processing or reprocessing of metals involving smelting, casting, metal coating or metal products recovery that:

(1) process into ore concentrates more than 150 tonnes per day of material; or

(2) smelt, process. coat, reprocess or recover more than 10,000 tonnes per annum of ferrous or non-ferrous metals. alloys or ore concentrates; or

(3) crush, grind, shred, sort or store:

(a) more than 150 tonnes per day, or 30,000 tonnes per annum, of scrap metal and are not wholly contained within a building; or

(b) more than 50,000 tonnes per annum and are wholly contained within a building; or

(4) are located:

(a) within 40 metres of a natural waterbody or wetlands; or

(b) in an area of high watertable; or

(c) within 500 metres of a residential zone and, in the opinion of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, smoke, soot., dust, traffic or waste; or

(d) so that. in the opinion of the consent authority, having regard to topography and local meteorological conditions, the works are likely to significantly affect the environment because of the use or production of substances classified as poisonous in the Australian Dangerous Goods Code.

Mines that mine, process or handle minerals (being minerals within the meaning of the Mining Act 1992 other than coal or limestone) and:

(1) disturb or will disturb a total surface area of more than 4 hectares of land (associated with a mining lease or mineral claim or subject to a Section 8 notice under the Mining Act 1992) by:

(a) clearing or excavating; or

(b) constructing dams, ponds, drains, roads, railways or conveyors; or

(c) storing or depositing overburden, ore or its products or tailings; or

(2) are located:

(a) in a natural waterbody or wetlands; or

(b) in or within 40 metres of a natural waterbody. wetlands. a drinking water catchment or an environmentally sensitive area; or

(c) within 200 metres of a coastline; or

(d) if involving blasting, within:

(i) 1,000 metres of a residential zone; or

(ii) 500 metres of a dwelling not associated with the mine; or

(e) within 500 metres of another mining site that has operated during the past 5 years; or

(f) so that, in the opinion of the consent authority. having regard to topography and local meteorological conditions, the mine is likely to significantly affect the environment because of the use or production of substances classified as poisonous in the Australian Dangerous Goods Code.

This designation of mines does not include continued mines within the meaning of State Environmental Planning Policy No. 37—Continued Mines and Extractive Industries in respect of which an application for development consent has been made before the end of the moratorium period prescribed under that Policy.

Paper, pulp or pulp products industries that manufacture paper, paper pulp or pulp products and:

(1) have an intended production capacity of more than:

(a) 30,000 tonnes per annum; or

(b) 70,000 tonnes per annum if recycled material is used exclusively as raw material and no bleaching or de-inking is undertaken; or

(2) release effluent or sludge:

(a) in or within 100 metres of a natural waterbody or wetlands; or

(b) in an area of:

(i) high watertable; or

(ii) highly permeable soils; or

(c) in a drinking water catchment.

Petroleum works that:

(1) produce crude petroleum or shale oil; or

(2) produce more than 5 petajoules per annum of natural gas or methane; or

(3) refine crude petroleum, shale oil or natural gas; or

(4) manufacture more than 100 tonnes per annum of petroleum products (including aviation fuel. petrol, kerosene, mineral turpentine, fuel oils, lubricants, wax, asphalt, liquefied gas and the precursors to petrochemicals, such as acetylene, ethylene, toluene and xylene); or

(5) store petroleum and natural gas products with an intended storage capacity in excess of:

(a) 200 tonnes for liquefied gases; or

(b) 2,000 tonnes of any petroleum products; or

(6) dispose of oil or petroleum waste or process or recover more than 20 tonnes of waste per annum; or

(7) are located:

(a) within 40 metres of a natural waterbody or wetlands; or

(b) in an area of:

(i) high watertable; or

(ii) highly permeable soils; or

(c) within a drinking water catchment; or

(d) on a floodplain.

Sewerage systems or works that:

(1) treat sewage and:

(a) have an intended processing capacity of more than 2,500 persons equivalent capacity or 750 kilolitres per day; or

(b) have an intended processing capacity of more than 20 persons equivalent capacity or 6 kilolitres per day and are located:

(i) on a floodplain; or

(ii) within a coastal dune field; or

(2) incinerate sewage or sewage products; or

(3) temporarily or permanently store sewage, sludge or effluent:

(a) with a capacity of more than 1,000 tonnes of material; or

(b) at a location:

(i) within 100 metres of a natural waterbody or wetlands; or

(ii) in an area of:

l high watertable; or

l highly permeable soils; or

(iii) within a drinking water catchment; or

(iv) on a floodplain; or

(v) within 250 metres of a dwelling not associated with the development; or

(4) release or reuse more than 20 persons equivalent capacity or 6 kilolitres per day of sewage, effluent or sludge at a location:

(a) in or within 100 metres of a natural waterbody, wetlands, coastal dune fields or an environmentally sensitive area; or

(b) in an area of:

(i) high watertable; or

(ii) highly permeable soils; or

(iii) acid sulphate, sodic or saline soils; or

(c) on land that slopes at more than 6 degrees to the horizontal; or

(d) within a drinking water catchment; or

(e) within a catchment of an estuary where the entrance to the sea is intermittently open; or

(f) on a floodplain; or

(g) within 500 metres of a residential zone or 250 metres of a dwelling not associated with the development.

This designation of sewerage systems or works does not include development for the pumping out of sewage from recreational vessels.

Shipping facilities, being wharves or wharf-side facilities at which cargo is loaded onto vessels, or unloaded from vessels, or temporarily stored, at a rate of more than:

(1) 150 tonnes per day, or 5,000 tonnes per annum, for facilities handling goods classified in the Australian Dangerous Goods Code; or

(2) 500 tonnes per day or 50,000 tonnes per annum.

Turf farms that, in the opinion of the consent authority, are likely to significantly affect the environment because of their location:

(1) within 100 metres of a natural waterbody or wetlands; or

(2) in an area of:

(a) high watertable; or

(b) acid sulphate, sodic or saline soils; or

(3) within a drinking water catchment; or

(4) within 250 metres of another turf farm.

Waste management facilities or works that store, treat, purify or dispose of waste or sort, process, recycle. recover, use or reuse material from waste and that:

(1) dispose (by landfilling, incinerating, storing, placing or other means) of solid or liquid waste:

(a) that includes any substance classified in the Australian Dangerous Goods Code or medical. cytotoxic or quarantine waste; or

(b) that comprises more than 100,000 tonnes of 'clean fill' (such as soil. sand, gravel, bricks or other excavated or hard material) in a manner that, in the opinion of the consent authority, is likely to cause significant impacts on drainage or flooding; or

(c) that comprises more than 1,000 tonnes per annum of sludge or effluent; or

(d) that comprises more than 200 tonnes per annum of other waste material; or

(2) sort. consolidate or temporarily store waste at transfer stations or materials recycling facilities for transfer to another site for final disposal, permanent storage, reprocessing, recycling, use or reuse and:

(a) handle substances classified in the Australian Dangerous Goods Code or medical, cytotoxic or quarantine waste; or

(b) have an intended handling capacity of more than 10,000 tonnes per annum of waste containing food or livestock. agricultural or food processing industries waste or similar substances; or

(c) have an intended handling capacity of more than 30,000 tonnes per annum of waste such as glass, plastic, paper, wood, metal, rubber or building demolition material; or

(3) purify, recover, reprocess or process (including by mulching or composting) more than 5,000 tonnes per annum of organic solid or liquid waste organic materials, including food waste, oil. sludge, pulp. garden refuse, sawdust or wood chips; or

(4) are located:

(a) in or within 100 metres of a natural waterbody, wetlands. coastal dune fields or an environmentally sensitive area; or

(b) in an area of high watertable, highly permeable soils, acid sulphate, sodic or saline soils; or

(c) within a drinking water catchment; or

(d) within a catchment of an estuary where the entrance to the sea is intermittently open; or

(e) on a floodplain; or

(f) within 500 metres of a residential zone or 250 metres of a dwelling not associated with the development and, in the opinion of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, visual impacts, air pollution (including odour, smoke, fumes or dust), vermin or traffic.

This designation of waste management facilities or works does not include:

(a) development comprising or involving any use of sludge or effluent if

(i) the dominant purpose is not waste disposal; and

(ii) the development is carried out in a location other than one listed in paragraph (4) above; or

(b) development comprising or involving waste management facilities or works specifically listed elsewhere in this Schedule.

Wood or timber milling or processing works (other than a joinery, builders supply yard or home improvement centre) that saw. machine, mill, chip, pulp or compress timber or wood and:

(1) have an intended production capacity of more than 4,000 cubic metres per annum of sawn timber or timber products and:

(a) are located within 500 metres of a dwelling not associated with the milling works; or

(b) are located within 40 metres of a natural waterbody or wetlands; or

(c) burn waste (other than as a source of fuel); or

(2) have an intended production capacity of more than 30,000 cubic metres per annum of sawn timber or timber products.

Wood preservation works that treat or preserve timber using chemical substances (containing copper, chromium, arsenic, creosote or any substance classified in the Australian Dangerous Goods Code) and:

(1) process more than 10,000 cubic metres per annum of timber; or

(2) are located:

(a) within 250 metres of a natural waterbody, wetlands or an environmentally sensitive area; or

(b) in an area of:

(i) high watertable; or

(ii) highly permeable soils; or

(c) on land that slopes at more than 6 degrees to the horizontal; or

(d) within a drinking water catchment; or

(e) within 250 metres of a dwelling not associated with the development.

PART 2—ARE ALTERATIONS OR ADDITIONS DESIGNATED DEVELOPMENT?

Is there a significant increase in the environmental impacts of the total development?

1. Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent authority. the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.

Factors to be taken into consideration

2. In forming its opinion, a consent authority is to consider:

(a) the impact of the existing development having regard to factors including:

(i) previous environmental management performance, including compliance with:

• conditions of any consents, licences, leases or authorisations by a public authority; and

• any relevant codes of practice; and

(ii) rehabilitation or restoration of any disturbed land; and

(iii) the number and nature of all past changes and their cumulative effects; and

(b) the likely impact of the proposed alterations or additions having regard to factors including:

(i) the scale, character or nature of the proposal in relation to the development; and

(ii) the existing vegetation, air, noise and water quality, scenic character and special features of the land on which the development is or is to be carried out and the surrounding locality; and

(iii) the degree to which the potential environmental impacts can be predicted with adequate certainty; and

(iv) the capacity of the receiving environment to accommodate changes in environmental impacts; and

(c) any proposals:

(i) to mitigate the environmental impacts and manage any residual risk; and

(ii) to facilitate compliance with relevant standards, codes of practice or guidelines published by the Department of Planning or other public authorities.

PART 3—WHAT DO TERMS USED IN THIS SCHEDULE MEAN?

In this Schedule:

acid sulphate soil means acid sulphate soil, potential acid sulphate soil. sulphidic clay or sulphidic sand with soil profiles or layers (within the material to be disturbed or impacted by the development) with more than 0.1 percent sulphide and a net acid generation potential of more than zero.

ANEF means Australian Noise Exposure Forecast as defined in Australian Standard AS2021-1985 Acoustics-Aircraft Noise Intrusion.

Australian Dangerous Goods Code means the Australian Code for the Transport of Dangerous Goods by Road and Rail prepared by the Federal Office of Road Safety, Department of Transport and Communications. as in force at 1 September 1994.

coastal dune field means any system of wind-blown sand deposits extending landwards of the coastline, whether active or stable.

coastline means ocean beaches, headlands or other coastal landforms, excluding bays, estuaries or inlets.

contaminated soil means soil that contains a concentration of chemical substances (including substances listed in the Australian Dangerous Goods Code) that are likely to post an immediate or long term hazard to human health or the environment. Soil is considered to be a hazard if it is:

(a) unsafe or unfit for habitation or occupation by people or animals; or

(b) degraded in its capacity to support plant life; or

(c) otherwise environmentally degraded.

drinking water catchment means the restricted areas prescribed by the controlling water authority or within 100 metres of a potable groundwater supply bore.

dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

effluent includes treated or partially treated wastewater from processes such as sewage treatment plants or from treatment plants associated with intensive livestock industries, aquaculture or agricultural. livestock. wood. paper or food processing industries.

environmentally sensitive area means:

(a) land identified in an environmental planning instrument as an environment protection zone such as for the protection or preservation of habitat, plant communities, escarpments, wetlands or foreshore or land protected or preserved under State Environmental Planning Policy No. 14—Coastal Wetlands or State Environmental Planning Policy No. 26—Littoral Rainforests; or

(b) land reserved as national parks or historic sites or dedicated as nature reserves or declared as wilderness under the National Parks and Wildlife Act 1974: or

(c) land reserved as an aquatic reserve under the Fisheries and Oyster Farms Act 1935; or

(d) land reserved or dedicated within the meaning of the Crown Lands Act 1989 for the preservation of flora, fauna, geological formations or for other environmental protection purposes; or

(e) land declared as wilderness under the Wilderness Act 1987.

extractive material means sand, soil, stone, gravel, rock. sandstone or similar substances that are not prescribed minerals within the meaning of the Mining Act 1992.

floodplain means the floodplain level nominated in a local environmental plan or those areas inundated as a result of a 1 in 100 flood event if no level has been nominated.

high watertable means those areas where the groundwater depth is less than 3 metres below the surface at its highest seasonal level.

highly permeable soil means soil profiles or layers (within the upper 2 metres of the material to be disturbed or impacted by the development) with a saturated hydraulic conductivity of more than 50 millimetres per hour,

incinerate includes any method of burning or thermally oxidising solids, liquids or gases.

poisonous means substances classified as poisonous in the Australian Dangerous Goods Code, including poisonous gases (Class 2.3) or poisonous (toxic), infectious and genetically modified substances (Class 6).

residential zone means land identified in an environmental planning instrument as being predominantly for residential use. including urban, village or living area zones, but excluding rural residential zones.

saline soil means soil profiles or layers (within the upper 2 metres of soil) with an electrical conductivity of saturated extracts (Ece) value of more than 4 decisiemens per metre (Ds/m).

sludge includes waste particulate matter (mainly organic) from processes such as sewage treatment plants, intensive livestock industries or agricultural, livestock. wood, paper or food processing industries.

sodic soil means soil profiles or layers (within the upper 2 metres of soil) with an exchangeable sodium percentage (ESP) of more than 5 percent.

waste includes any matter or thing whether solid, gaseous or liquid or a combination of any solids, gases or liquids that is discarded or is refuse from processes or uses (such as domestic, medical, industrial, mining, agricultural or commercial processes or uses).

waterbody means:

(a) **a natural waterbody,** including:

(i) a lake or lagoon either naturally formed or artificially modified; or

(ii) a river or stream, whether perennial or intermittent, flowing in a natural channel with an established bed or in a natural channel artificially modifying the course of the stream; or

(iii) tidal waters including any bay, estuary or inlet; or

(b) **an artificial waterbody,** including any constructed waterway, canal, inlet, bay, channel, dam, pond or lake, but does not include a dry detention basin or other construction that is only intended to hold water intermittently.

wetlands means:

(a) **natural wetlands** including marshes, mangroves, backwaters, billabongs, swamps, sedgelands, wet meadows or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with fresh, brackish or salt water, and where the inundation determines the type and productivity of the soils and the plant and animal communities; or

(b) **artificial wetlands.** including marshes, swamps, wet meadows, sedgelands or wet heathlands that form a shallow water body (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with water, and are constructed and vegetated with wetland plant communities.

PART 4—HOW ARE DISTANCES MEASURED FOR THE PURPOSES OF THIS SCHEDULE?

aquaculture or mariculture:

The distance between leases is to be measured as the shortest distance between the boundary of any existing lease area and the boundary of the area to which the development application applies.

coastline:

The distance from a coastline is to be measured as the shortest distance between the mean high water mark and the boundary of the land to which the development application applies (excluding access roads).

dwelling:

The distance from a dwelling is to be measured as the shortest distance between the edge of the dwelling and the boundary of any development or works to which the development application applies.

environmentally sensitive area:

The distance from an environmentally sensitive area is to be measured as the shortest distance between the boundary of the area and the boundary of the land to which the development application applies.

extractive industries and mines (including coal and limestone):

The distance between extractive industries or mine sites is to be measured as the shortest distance between any area of disturbance by a mine or extractive industry that has operated within the past 5 years and the boundary of the land to which the development application applies (excluding access roads).

poultry farms:

The distance between poultry farms is to be measured as the shortest distance between the edge of any facilities or works associated with an existing poultry farm and the facilities or works to which the development application applies (excluding access roads).

residential zone:

The distance from a residential zone is to be measured as the shortest distance between the boundary of the residential zone and the facilities or works to which the development application applies (excluding access roads).

turf farm:

The distance between turf farms is to be measured as the shortest distance between the edge of an area which is growing or has previously grown turf sod within the last 5 years and the edge of the area for growing turf sod to which the development application applies.

waterbody:

The distance from a waterbody is to be measured as the shortest distance between:

(a) the top of the high bank, if present; or

(b) if no high bank is present, then:

(i) the mean high water mark in tidal waters; or

(ii) the mean water level in non-tidal waters,

and the boundary of the land to which the development application applies.

wetlands:

The distance from a wetland is to be measured as the shortest distance between:

(a) the top of the high bank, if present; or

(b) if no high bank is present, then the edge of vegetation communities dominated by wetland species,

and the boundary of the land to which the development application applies.

SCHEDULE 4—SECTION 149 CERTIFICATES

(Cl. 112)

1. If a local environmental plan, a deemed environmental planning instrument or a draft local environmental plan that has been placed on exhibition under section 66 (1) (b) of the Act restricts, or purports to restrict, the purposes for which development may be carried out on the land:

(a) the name of the instrument; and

(b) the purposes for which development may be carried out in accordance with that instrument without development consent and with development consent; and

(c) the purposes for which the carrying out of development is prohibited under that instrument.

2. If the land is identified as being within a zone (within the meaning of an instrument referred to in item 1):

(a) the name of the instrument and of the zone; and

(b) the purposes for which development may be carried out within that zone without development consent and with development consent; and

(c) the purposes for which the carrying out of development is prohibited within that zone.

3. Any matter relating to a State environmental planning policy or a regional environmental plan applying to the land. or to a draft State environmental planning policy or draft regional environmental plan applying to the land, which the Minister has, generally or in any particular case, notified the council should be specified in the certificate.

4. If the application for the certificate states that the land is vacant, whether the erection of a dwelling-house on that land is prohibited because of a development standard relating to the minimum area on which a dwelling-house may be erected.

5. Whether or not the demolition of any building on the land requires development consent to be obtained.

6. If a development control plan that is expressed to apply to the land has been approved under Part 3 of this Regulation, the name of the plan (whether or not the plan is in force).

7. If a contributions plan that is expressed to apply to the land has been approved under Part 4 of this Regulation. the name of the plan (whether or not the plan is in force).

8. Whether any application to carry out development on the land would, at the time the application for the certificate was lodged, be the subject of a direction under section 101 (1) of the Act, and (if so) the general nature of that direction.

9. Whether the land is or is not affected by the operation of section 38 or 39 of the Coastal Protection Act 1979. but only to the extent that the council has been so notified by the Department of Public Works.

10. Whether or not the land has been proclaimed to be a mine subsidence district within the meaning of section 15 of the Mine Subsidence Compensation Act 1961.

11. Whether or not the land is affected by any road widening or road realignment under:

(a) Division 2 of Part 3 of the Roads Act 1993; or

(b) any environmental planning instrument; or

(c) any resolution of the council.

12. Whether or not the council has by resolution adopted a policy to restrict the development of the land because of the likelihood of land slip, bushfire. flooding, tidal inundation, subsidence or any other risk.

SCHEDULE 5—FORMS (Cl. 3)

Note: The provisions of the Act and this Regulation allow forms to differ from those set out in this Schedule. However they must still substantially comply with those set out in this Schedule.

Form 1

Application for development
made under the Environmental Planning and Assessment Act 1979 Section 77

applicant
name
address

land to be developed
address

lot no. DP/MPS, vo/fol etc

or

☐ map(s) attached (*see note 1*)

proposed development
description
(eg advertisement, demolition. etc)
proposed use (if a building)

estimated cost *(see note 2)*

type of consent
(if applicable)

☐ deferred commencement
☐ staged development

required attachments

☐ 3 copies of plan of land (*see note 3*)
☐ 3 copies of plans/drawings of proposed development (*see note 4*)
☐ 1 copy of plan for purposes of clause 67 of the Environmental Planning and Assessment Regulation 1994 (*see note 5*)
☐ other information (*see note 6*)
☐ application fee

Form 1 *(cont)*

environmental impact

(for designated development) ☐ an environmental impact statement (EIS) is attached
or (for other development) ☐ a statement on environmental effects is attached (see note 7)
or ☐ the proposed development is considered to have negligible effect

other attachments

☐ additional material requested by consent authority (see note 8)
☐ additional material submitted by applicant (see note 9)
☐ details of any prior staged consent granted

consent of all owner(s)

(required if the applicant is not the owner of the land)
As the owner of the above property. I consent to this application. *(see note 10)*

signature(s) _____
name(s) _____
date / /

signed by applicant

or person signing on behalf of applicant please state in what capacity

signature _____
name, if not applicant _____
capacity, if not applicant _____
date / /

Notes for completing Development Application

Note 1 A description of the land to be developed can be given in the form of a map which contains details of the lot number, DP/MPS, vol/fol etc.

Note 2 In the case of a building or work, the fee is based on the estimated cost.

Note 3 A plan of the land must indicate:

a) location. boundary dimensions. site area and north point of the land
b) existing vegetation and trees on the land
c) location and uses of existing buildings on the land
d) existing levels of the land in relation to buildings and roads
e) location and uses of buildings on sites adjoining the land.

Form 1 *(cont)*

Note 4 Plans or drawings describing the proposed development must indicate (where relevant):

a) the location of proposed new buildings or works (including extensions or additions to existing buildings or works) in relation to the land's boundaries and adjoining development

b) floor plans of proposed buildings showing layout, partitioning. room sizes and intended uses of each part of the building

c) elevations and sections showing proposed external finishes and heights

d) proposed finished levels of the land in relation to buildings and roads

e) building perspectives. where necessary to illustrate the proposed building

f) proposed parking arrangements, entry and exit points for vehicles, and provision for movement of vehicles within the site (including dimensions where appropriate)

g) proposed landscaping and treatment of the land (indicating plant types and their height and maturity)

h) proposed methods of draining the land.

Note 5 A plan of the building that indicates its height and external configuration. as erected, in relation to the site on which it is to be erected.

Note 6 Other information must indicate (where relevant):

a) in the case of shops, offices, commercial or industrial development:
- details of hours of operation
- plant and machinery to be installed
- type. size and quantity of goods to be made, stored or transported
- loading and unloading facilities

b) in the case of subdivision:
- details of the existing and proposed subdivision pattern (including the number of lots and location of roads)
- details of consultation with public authorities responsible for provision or amplification of utility services required by the proposed subdivision

c) in the case of demolition:
details of age and condition of buildings or works to be demolished

d) in the case of advertisements
details of the size. type, colour, materials and position of the sign board or structure on which the proposed advertisement is to be displayed

e) in the case of development relating to an existing use:
details of the existing use.

Note 7 Where a proposed development is not designated development the application must be accompanied by a statement of environmental effects unless the proposed development is considered to have negligible effect (eg minor interior alterations) which must

a) demonstrate that the environmental impact of the development has been considered

b) set out steps to be taken to protect the environment or to mitigate the harm.

Note 8 The consent authority may. within 21 days of receiving the development application, ask for additional information on the development if that information is necessary for the determination of the application.

Note 9 The application may be supported with additional material (eg photographs, slides. models, etc) illustrating the proposed development and its context.

Note 10 In the case of Crown land within the meaning of the Crown Lands Act 1989, the owner's consent must be signed by the relevant officer of the Department of Conservation and Land Management.

Form 2

Submission of environmental impact statement (EIS)
prepared under the Environmental Planning and Assessment Act 1979 Section 77

EIS prepared by
name
qualifications

address

in respect of

development application
applicant name
applicant address

land to be developed: address

lot no, DP/MPS, vol/fol etc
proposed development

or
☐ map(s) attached

environmental impact Statement

* an environmental impact statement (EIS) is attached

certificate

I certify that I have prepared the contents of this Statement and to the best of my knowledge

- it is in accordance with clauses 51 and 52 of the Environmental Planning and Assessment Regulation 1994, and
- it is me in all material particulars and does not by its presentation or omission of information, materially mislead.

signature
name
date / /

Form 3

Notice of determination of development application
issued under the Environmental Planning and Assessment Act 1979 Section 92

development application

applicant name
applicant address

land to be developed: address

proposed development

determination

made on (date) / /

determination

- ☐ consent granted unconditionally
- ☐ consent granted subject to conditions described below
- ☐ application refused

consent to operate from (date) / /
consent to lapse on (date) / /
details of conditions (including section 94 conditions)

reasons for conditions/refusal

right of appeal

If you are dissatisfied with this decision, section 97 of the Environmental Planning and Assessment Act 1989 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

signed

on behalf of the consent authority

signature
name
date / /

Form 4

Determination of development application
(designated development)
Notice to people who made submissions
under Section 87 of the Act

issued under the Environmental Planning and Assessment Act 1979 Section 95

submission made by

name
address

development application

number
applicant name
land to be developed: address

proposed development

determination

- ☐ consent granted unconditionally
- ☐ consent granted subject to conditions described below
- ☐ application refused

rights of appeal

applicant's right of appeal — If the applicant is dissatisfied with this decision, section 97 of the Environmental Planning and Assessment Act 1979 gives him or her the right to appeal to the Land and Environment Court within 12 months after the date on which he or she received the 'Notice of determination' under section 92 (copy attached).

your right to be informed — If the applicant appeals. section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to be given notice of the appeal, and to be heard at the hearing of the appeal (you need to apply to the Court within 28 days of the notice of the appeal).

your right of appeal — If you are an objector to designated development. and are dissatisfied with a decision to grant consent (either unconditionally or subject to conditions), section 98 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within 28 days of the date of this notice. Your appeal may be made by lodging an application to the Court in accordance with the Rules of Court.

signed — on behalf of the consent authority

signature
name
date / /

Form 5

Determination of development application
(advertised development)
Notice to people who made submissions
under Section 87 of the Act
issued under the Environmental Planning and Assessment Act 1979
Section 95

submission made by
name
address

development application
number
applicant name
land to be developed: address

proposed development

determination

☐ consent granted unconditionally
☐ consent granted subject to conditions described below
☐ application refused

signed

on behalf of the consent authority

signature
name
date / /

Form 6

Application to modify a consent
granted under the Environmental Planning and Assessment Act 1979 Section 102

owner of land
name
address

land
address

lot no, DP/MPS, vol/fol etc

or

☐ map(s) attached

consent
give details

modification
give details of
manner and extent
(provide evidence that the modification does not substantially alter the development)

agreement of all owner(s)

Being the owner of the land described above,
1 apply to modify the consent as described above.

signature(s)

date / /

Form 7

Modification or surrender of a consent
granted under the Environmental Planning and Assessment Act 1979
or of an "existing use" right
conferred by Division 2 of Part 4 of the Act

owner of land
name
address

land
address

lot no, DP/MPS, vol/fol etc

consent / right*
give details

modification
give details of
manner and extent

agreement of all owner(s)

Being the owner of the land described above.
I modify/surrender* the consent/the right* described above.

signature(s)
name(s)
date / /

** Cross out whichever does not apply*

Form 8

Submission of

environmental impact statement (EIS)

prepared under the Environmental Planning and Assessment Act 1979 Section 112

EIS prepared by

name

qualifications

address

in respect of

Part 5 activity

proponent name

proponent address

land on which activity to be carried out: address

lot no, DP/MPS, vol/fol etc

proposed development

or

☐ map(s) attached

environmental impact statement

☐ an environmental impact statement (EIS) is attached

certificate

I certify that I have prepared the contents of this Statement and to the best of my knowledge

- it is in accordance with clauses 84 and 85 of the Environmental Planning and Assessment Regulation 1994, and
- it is true in all material particulars and does not, by its presentation or omission of information. materially mislead.

signature

name

date / /

DICTIONARY

(Cl. 3)

advertised development means development (other than designated development) to which any one or more of sections 84, 85, 86, 87 (1) and 90 of the Act apply as if the development were designated development.

contributions plan means a contributions plan referred to in section 94AB of the Act.

development consent means a consent under Division 1 of Part 4 of the Act to carry out development.

environmental impact statement means an environmental impact statement referred to in section 77 or 112 of the Act.

existing use right means a right conferred by Division 2 of Part 4 of the Act.

Government Coastal Policy means the Government publication entitled "Draft Revised Coastal Policy", as published in April 1994, a copy of which may be inspected during ordinary office hours:

(a) at any of the offices of the Department of Planning; or

(b) at the offices of any of the councils of the local government areas listed in Schedule 1.

local newspaper means a newspaper circulating throughout the relevant area at intervals of not more than 2 weeks.

relevant date means:

(a) in relation to an existing use referred to in section 106 (a) of the Act—the date on which an environmental planning instrument having the effect of prohibiting the existing use first comes into force; or

(b) in relation to an existing use referred to in section 106 (b) of the Act—the date when the building, work or land being used for the existing use was first erected, carried out or so used.

section 92 notice means a notice under section 92 of the Act that is given to an applicant by a consent authority in relation to its determination of a development application.

section 94 condition means a condition under section 94 of the Act requiring the dedication of land or the payment of a monetary contribution, or both.

section 94 contribution means the dedication of land, the payment of a monetary contribution or the provision of a material public benefit, as referred to in section 94 of the Act.

section 95 notice means a notice under section 95 of the Act that is given to an objector by a consent authority in relation to its determination of a development application.

the Act means the Environmental Planning and Assessment Act 1979.

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EXPLANATORY NOTE

The object of this Regulation is to repeal and remake the provisions of the Environmental Planning and Assessment Regulation 1980 under the Environmental Planning and Assessment Act 1979. The new Regulation deals with the following matters:

(a) the preparation of local environmental plans under Division 4 of Part 3 of the Act (Part 2);

(b) the preparation of development control plans under sections 5 IA and 72 of the Act (Part 3);

(c) the preparation of contributions plans under section 94AB of the Act (Part 4);

(d) the regulation of existing uses under Division 2 of Part 4 of the Act (Pan 5);

(e) the procedure for making and determining development applications under Division1 of Part 4 of the Act (Part 6);

(f) the regulation of various matters in relation to development consents under Division1 of Part 4 of the Act (Part 7);

(g) the environmental assessment of activities under Part 5 of the Act (Part 8);

(h) the fees and charges payable under the Act (Part 9);

(i) the maintenance of a register of development applications under Division 1 of Part 4 of the Act (Part 10);

(j) other matters of a minor, consequential or ancillary nature (Parts 1 and II).

This Regulation is made under the Environmental Planning and Assessment Act 1979, including section 157 (the general regulation making power) and various other sections.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.