



New South Wales

Environmental Planning and Assessment Amendment Regulation 2000

under the

Environmental Planning and Assessment Act 1979

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Environmental Planning and Assessment Act 1979*.

ANDREW REFSHAUGE, M.P.,

Minister for Urban Affairs and Planning

Explanatory note

The objects of this Regulation are to make miscellaneous amendments to the *Environmental Planning and Assessment Regulation 1994* and the *Environmental Planning and Assessment (Savings and Transitional) Regulation 1998*.

The amendments to the *Environmental Planning and Assessment Regulation 1994* deal with the following matters:

- (a) the modification of development consents (so as to complement amendments to section 96 of the *Environmental Planning and Assessment Act 1979* that have been made by the *Environmental Planning and Assessment Amendment Act 1999*),
- (b) development applications for certain land within the Concord local government area (so as to complement amendments to be made to the *Concord Planning Scheme Ordinance*),
- (c) other minor matters.

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Explanatory note

The amendments to the *Environmental Planning and Assessment (Savings and Transitional) Regulation 1998* deal with the following matters:

- (a) the operation of various transitional provisions (so as to postpone their expiry from 1 July 2000 to 1 July 2001),
- (b) the modification of development consents (so as to complement amendments to section 96 of the *Environmental Planning and Assessment Act 1979* that have been made by the *Environmental Planning and Assessment Amendment Act 1999*),
- (c) integrated development (so as to complement amendments to the *Environmental Planning and Assessment Act 1979* that have been made by the *Protection of the Environment Operations Act 1997*),
- (d) other minor matters.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including section 157 (the general power to make regulations), clause 1 of Schedule 6 (the power to make regulations of a savings or transitional nature) and various other provisions referred to in the amending provisions of this Regulation.

Environmental Planning and Assessment Amendment Regulation 2000

1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment Regulation 2000*.

2 Commencement

- (1) This Regulation commences on 1 June 2000, except as provided by subclauses (2) and (3).
- (2) Schedule 1 [5] commences on the date on which *Concord Local Environmental Plan No 110* commences.

3 Amendment of Environmental Planning and Assessment Regulation 1994

The *Environmental Planning and Assessment Regulation 1994* is amended as set out in Schedule 1.

4 Amendment of Environmental Planning and Assessment (Savings and Transitional) Regulation 1998

The *Environmental Planning and Assessment (Savings and Transitional) Regulation 1998* is amended as set out in Schedule 2.

5 Notes

The explanatory note does not form part of this Regulation.

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Schedule 1 Amendment of Environmental Planning and Assessment Regulation
1994

Schedule 1 Amendment of Environmental Planning and Assessment Regulation 1994

(Clause 3)

[1] Clause 63 What are the types of advertised development?

Omit "*Pollution Control Act 1970*" from clause 63 (1) (b) (iii).

Insert instead "*Protection of the Environment Operations Act 1997*".

[2] Clause 91B Concurrence or consultation with Director-General of
National Parks and Wildlife

Insert "51," after "50A,".

[3] Clause 105 What is the fee for an application for modification of a
consent for local development or State significant development?

Insert after clause 105 (1):

(1A) The maximum fee for an application under section 96 (1A)
of the Act for the modification of a development consent is:

(a) if the fee for the original application was less than
\$100, 50% of that fee, or

(b) in all other cases, 50% of the fee for the original
application or \$500, whichever is the lesser.

[4] Clause 110DA Master plans under SREP 28

Omit "*Policy*" from clause 110DA(1).

[5] Clause 110DC

Insert after clause 110DB:

110DC Comprehensive development applications under Concord
Planning Scheme Ordinance

(1) This clause applies to land to which clause 61H of the
Concord Planning Scheme Ordinance applies.

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- (2) Pursuant to section 80 (11) of the Act, a development application for land within a development precinct (within the meaning of clause 61H of the *Concord Planning Scheme Ordinance*) must not be determined by the consent authority unless:
- (a) the application relates to the whole of the precinct, or
 - (b) the application relates to a part of the precinct for which there is in force:
 - (i) a development control plan that provides comprehensive design criteria for the whole of the precinct, or
 - (ii) an earlier development consent that relates to the whole of the precinct.
- (3) Subclause (2) does not apply to a development application that relates solely to the provision of public infrastructure, utility installations or public facilities as referred to in clause 61H (5) (b) of the *Concord Planning Scheme Ordinance*.

[6] Schedule 3 Designated development

Omit the definition of *drinking water catchment* from Part 3 of Schedule 3.

Insert instead:

drinking water catchment means:

- (a) land within a restricted area prescribed by a controlling water authority, including:
 - (i) an inner or outer catchment area declared under the *Sydney Water Catchment Management Act 1998*, and
 - (ii) a catchment district proclaimed under section 128 of the *Local Government Act 1993*, or
- (b) land within 100 metres of a potable groundwater supply bore.

[7] Schedule 5 Forms

Omit Form 10. Insert instead:

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Schedule 1 Amendment of Environmental Planning and Assessment Regulation
1994

Form 10

Compliance Certificate

issued under the *Environmental Planning and Assessment Act*
1979 s109C (1) (a)

applicant

name _____
address _____
contact no (phone/fax) _____

**development consent no
or complying development
certificate** (where in force)
development consent no/CDC no _____
date of determination _____

construction certificate
(where in force)
certificate no _____
date of issue _____

**description of
development**
(where relevant) _____

subject land
address _____

lot, DP/MPS etc _____

type of certificate
(nominate type of certificate)

specified building/subdivision work has been completed and
complies with plans and specifications

give precise details of the
building/subdivision work
completed that is being certified _____

give details of, or attach, the
plans and specifications with
which the completed work
complies _____

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Amendment of Environmental Planning and Assessment Regulation 1994

Schedule 1

give details of the specific condition(s) of development consent or complying development certificate and detail the matter the condition relates to and the standards/ instruments that the matter is required to comply with

condition(s) has/have been complied with

give details of the classification of the building in accordance with the BCA (eg class 1(a))

classification of building or proposed building

give details of the development and specific aspect of the development and the prescribed requirements it complies with

specified aspect of development complies with prescribed requirements

give details of the specific aspect of the development (including its design) and the specific standards or requirements with which that aspect of the development complies

specified aspect of development complies with specified standards or requirements

Inspections

give details of the work inspected

give details of the method of the inspection of the work

date and time that the completed work was inspected

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Schedule 1 Amendment of Environmental Planning and Assessment Regulation
1994

certificate

delete where not applicable

I _____ certify that:

- the above described building/subdivision work has been completed and complies with the attached plans and specification/specified plans and specifications to the extent referred to in this certificate
- the above condition(s) have been complied with
- the building or proposed building designed constructed or adapted for use for the purposes of:

_____ would be a class _____ building under the Building Code of Australia

- the above described aspect of development complies with the prescribed requirement referred to above
- the above described aspect of development (including design of development) complies with the standards or requirements specified in this certificate

signature

date of issue
certificate no

plan(s) approved

list plans where relevant

certifying authority

name of certifying authority
if accredited certifier *
accreditation no
contact number
address

* For the purposes of notifying a council under clause 79 (2) of the Regulation of the issue of a compliance certificate, an accredited certifier must forward all sections of this form, including all attachments, to the relevant council where they have not been previously forwarded to the council.

Schedule 2 Amendment of Environmental Planning and Assessment (Savings and Transitional) Regulation 1998

(Clause 4)

[1] Clause 5A Approvals required for certain subdivisions

Omit “1 July 2000” from clause 5A (3). Insert instead “1 July 2001”.

[2] Clause 17 State significant development

Omit “1 July 2000” from clause 17 (2). Insert instead “1 July 2001”.

**[3] Clause 29 Certain activities require development consent under
amended EP & A Act 1979**

Omit “2 years” from clause 29 (2) (g) (ii). Insert instead “3 years”.

[4] Clause 29 (7)

Omit the subclause. Insert instead:

(7) This clause has effect:

- (a) despite the existing provisions of an existing EPI, and
- (b) despite any rezoning of land (whether effected by existing or new provisions of an existing EPI or otherwise),

but is otherwise subject to the provisions of any new EPI and to any new provisions of an existing EPI.

[5] Clause 29 (11)

Omit “1 July 2000”. Insert instead “1 July 2001”.

**[6] Clause 29A Effect of environmental planning instruments on
certain prescribed activities**

Omit “1 July 2000” from clause 29A (4). Insert instead “1 July 2001”.

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[7] Clause 32 Notification of development

Omit the clause.

[8] Clause 33 Maximum fees chargeable for certain matters arising under amended EP&A Act 1979

Omit “1 July 2000” from clause 33 (4). Insert instead “1 July 2001”.

[9] Clause 36A Approvals required for certain prescribed activities

Omit “1 July 2000” from clause 36A (3). Insert instead “1 July 2001”.

[10] Clause 40A Continued operation of Part 2 of Chapter 7

Omit the clause.

[11] Clause 44 Repealed provisions of Local Government (Approvals) Regulation 1993 taken to be development standards

Omit the clause.

[12] Clause 58 Local orders policies

Omit the clause.

[13] Part 7

Insert after Part 6:

Part 7 Provisions consequent on enactment of Environmental Planning and Assessment Amendment Act 1999

75 Existing applications for modification of development consents

- (1) Section 96 of the unamended 1979 Act continues to apply to an application for the modification of a development consent made under that section before the commencement of Schedule 3 to the 1999 amending Act as if the 1999 amending Act had not been enacted.

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Amendment of Environmental Planning and Assessment (Savings and Transitional) Regulation 1998

Schedule 2

(2) In this clause:

the 1999 amending Act means the *Environmental Planning and Assessment Amendment Act 1999*.

the unamended 1979 Act means the *Environmental Planning and Assessment Act 1979*, as in force immediately before the commencement of Schedule 3 to the 1999 amending Act.

[14] Part 8

Insert at the end of the Regulation:

Part 8 Provisions consequent on enactment of Protection of the Environment Operations Act 1997

76 Definitions and application

(1) In this Part:

approval has the same meaning as it has in Division 5 of Part 4 of the 1979 Act.

grant has the same meaning as it has in Division 5 of Part 4 of the 1979 Act.

the 1997 Act means the *Protection of the Environment Operations Act 1997*.

the 1979 Act means the *Environmental Planning and Assessment Act 1979*.

(2) Pursuant to clause 1 of Schedule 6 to the Act, this Part is taken to have commenced on 1 July 1999 (the date of commencement of the 1997 Act).

77 Development that is no longer integrated development

(1) This clause applies to development:

- (a) that was integrated development before the commencement of the 1997 Act, and
- (b) in respect of which an application for development consent was made (but not determined) before that commencement,

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Schedule 2 Amendment of Environmental Planning and Assessment (Savings and Transitional) Regulation 1998

being development that, as a consequence of the enactment of the 1997 Act, has ceased to be integrated development because it no longer requires any approval of a kind referred to in section 91 of the Act.

- (2) Division 5 of Part 4 of the 1979 Act does not apply to development to which this clause applies.
- (3) Any action taken under the 1979 Act in relation to development to which this clause applies on the basis that it was integrated development has effect as if it had been taken on the basis that it was development that was not integrated development.
- (4) In particular, concurrence given under section 93A of the 1979 Act in relation to development to which this clause applies is taken to have been given under section 79B of the Act.

78 Development that continues to be integrated development

- (1) This clause applies to development:
 - (a) that was integrated development before the commencement of the 1997 Act, and
 - (b) in respect of which an application for development consent was made before (whether determined before or after) that commencement,

being development that, as a consequence of the enactment of the 1997 Act, continues to be integrated development because it still requires an approval of a kind referred to in section 91 of the Act.

- (2) In the case of development that formerly required an approval under the *Pollution Control Act 1970* or the *Waste Minimisation and Management Act 1995*:
 - (a) the general terms of approval to be given under section 91A or 92 of the 1979 Act are to be general terms of the corresponding approval under the 1997 Act, and

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Transitional) Regulation 1998

Schedule 2

- (b) the approval to be granted as referred to in section 93 of the 1979 Act is to be the corresponding approval under the 1997 Act.