



New South Wales

Environmental Planning and Assessment Amendment (Species Impact Statement) Regulation 2005

under the

Environmental Planning and Assessment Act 1979

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

FRANK SARTOR, M.P.,
Minister for Planning

Explanatory note

The object of this Regulation is to provide that changes to the test (*the section 5A test*) for deciding whether development or an activity is likely to have a significant effect on threatened species, populations or ecological communities, or their habitats, and changes to the required contents of species impact statements, are not to apply in respect of:

- (a) development or an activity the subject of a development application or application for Part 5 approval lodged before or within 6 months after the commencement of the changes, or
- (b) a Part 5 activity carried out by or on behalf of a determining authority if the determining authority's determination to carry out the activity occurs before or within 6 months after the commencement of the changes.

In the case of changes to the section 5A test, the applicant will have the option of choosing to have the changes apply in respect of an application made within 6 months after the commencement of the changes.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including section 157 (the general regulation-making power) and clause 1 of Schedule 6.

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Clause 1 Environmental Planning and Assessment Amendment (Species Impact Statement) Regulation 2005

**Environmental Planning and Assessment Amendment
(Species Impact Statement) Regulation 2005**

under the

Environmental Planning and Assessment Act 1979

1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Species Impact Statement) Regulation 2005*.

**2 Amendment of Environmental Planning and Assessment
Regulation 2000**

The *Environmental Planning and Assessment Regulation 2000* is amended as set out in Schedule 1.

Schedule 1 Amendment

(Clause 2)

Clause 286C

Insert after clause 286B:

286C Transitional—species impact statements and determination of significant effect

- (1) An amendment made to section 110 (Content of species impact statement) of the *Threatened Species Conservation Act 1995* by the *Threatened Species Conservation Amendment Act 2002* does not apply to or in respect of a species impact statement:
 - (a) that accompanies a development application lodged under Part 4 of the Act before or within 6 months after the commencement of the amendment, or
 - (b) that is submitted to a determining authority in connection with a Part 5 approval if the application for that approval (or for any of the Part 5 approvals required for that activity if the activity requires more than one Part 5 approval) is made before or within 6 months after the commencement of the amendment, or
 - (c) that is considered by a determining authority in connection with the carrying out of an activity by or on behalf of the determining authority if the determining authority makes its determination to carry out the activity (or to have it carried out on its behalf) before or within 6 months after the commencement of the amendment.
- (2) The substitution of section 5A (Significant effect on threatened species, populations or ecological communities, or their habitats) of the *Environmental Planning and Assessment Act 1979* by the *Threatened Species Conservation Amendment Act 2002* does not apply to or in respect of:
 - (a) development that is the subject of a development application lodged under Part 4 of the Act before or within 6 months after the substitution of that section (but not so as to affect the application of that section as substituted in respect of any part or aspect of that development that is the subject of a subsequent development application lodged more than 6 months after the substitution of that section), or

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Schedule 1 Amendment

- (b) an activity that is the subject of an application for a Part 5 approval made before or within 6 months after the substitution of that section, or
 - (c) an activity carried out by or on behalf of a determining authority if the determining authority makes its determination to carry out the activity (or to have it carried out on its behalf) before or within 6 months after the substitution of that section.
- (3) Subclause (2) does not apply in the case of a development application or application for a Part 5 approval lodged or made within 6 months after the substitution of section 5A of the *Environmental Planning and Assessment Act 1979* if the applicant advises the consent authority or determining authority in writing at the time of making or lodging the application that section 5A as substituted is to apply (in which case that section as substituted applies to and in respect of the development or activity concerned).
- (4) In this clause:
activity and *determining authority* have the same meanings as in Part 5 of the Act.
Part 5 approval means an approval of an activity by a determining authority that is required to enable the activity to be carried out.

BY AUTHORITY
