



New South Wales

Environmental Planning and Assessment Amendment (Major Projects) Regulation 2006

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 objects of this Regulation are:

- (a) to remove the requirement for an application under Part 3A of the *Environmental Planning and Assessment Act 1979 (the Act)* in respect of a linear infrastructure project to be consented to by the owner of land on which the project is to be carried out, and
- (b) to provide that the Director-General of the Department of Planning may accept, as an application to carry out a project under Part 3A of the Act, a development application made under Part 4 of the Act before the relevant development became a project to which Part 3A of the Act applies, and
- (c) to extend the scope of the power to adopt or accept, for the purposes of Part 3A of the Act, environmental assessment requirements issued, and environmental impact statements obtained, under Part 5 of the Act with respect to a development or activity before it became a Part 3A project, and
- (d) to provide that the Director-General may accept, as a period of public availability of the environmental assessment for a project or concept plan, a period of public exhibition of a statement of environmental effects before the relevant development becomes a project to which Part 3A of the Act applies. For that purpose, if the period of public availability is less than 30 days, it is accepted only to the extent of the actual period of public availability, and
- (e) to make it clear that a transitional provision that provides for the manner in which the Minister is to deal with a development application made before the commencement of Part 3A of the Act on the basis that the development was State significant development

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applies to any development application that was made before the commencement of that Part, whether or not the application at that time had been consented to by the owner of the land to which the development application relates, and

- (f) to provide for public notice of a planning agreement proposed to be entered into in connection with a proposed change to a local environmental plan to be given as soon as possible after public notice of the relevant draft local environmental plan is required to be given, but only in circumstances where it was not practicable to give concurrent notice.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 75Z (regarding Part 3A), 93L (regarding planning agreements) and 157 (the general regulation-making power) and Part 1 of Schedule 6 (the power to make savings and transitional regulations).

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1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Major Projects) Regulation 2006*.

2 Amendment of Environmental Planning and Assessment Regulation 2000

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

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Schedule 1 Amendments

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(Clause 2)

[1] Clause 8F Owner's consent or notification

Insert "of the Act" after "Part 3A" in clause 8F (1).

[2] Clause 8F (1) (d)

Insert at the end of clause 8F (1) (c):

, or

(d) the application relates to a linear infrastructure project.

[3] Clause 8F (3) (a)

Omit "project that comprises linear infrastructure".

Insert instead "linear infrastructure project".

[4] Clause 8F (3) (b)

Insert "(other than a project that also comprises a linear infrastructure project)" after "petroleum production".

[5] Clause 8F (3) (c)

Omit "(other than linear infrastructure or mining or petroleum production)".

Insert instead "(other than a project that also comprises a linear infrastructure project or mining or petroleum production)".

[6] Clause 8F (4), definition of "linear infrastructure"

Omit the definition. Insert instead:

linear infrastructure project means development for the purposes of linear transport or public utility infrastructure, or any other development on land with multiple owners designated by the Director-General for the purposes of this clause.

[7] Clause 8J Transitional provisions

Insert before clause 8J (1):

(1AA) The Director-General may accept, as an application for approval of a project under Part 3A of the Act, any development application made under Part 4 of the Act with respect to any development before it becomes a project to which Part 3A of the Act applies. The Director-General may, for that purpose, require any matter to be provided by the applicant that he or she could

require to be included in the application under section 75E of the Act.

[8] Clause 8J (1) and (2) (a)

Omit “under Division 4 of” wherever occurring.

[9] Clause 8J (3)

Insert “or a statement of environmental effects” after “statement”.

[10] Clause 8J (3)

Insert at the end of the subclause:

For that purpose, and to avoid doubt, if the period of public exhibition is less than 30 days, it is accepted only to the extent of the actual period of public exhibition.

[11] Clause 8J (3A)

Omit “assessment”.

Insert instead “statement or a statement of environmental effects”.

[12] Clause 8J (9)

Insert after clause 8J (8):

- (9) For the purposes of this clause, and to avoid doubt, a development application is made by a person when the person first applies to the consent authority for consent to carry out the particular development, whether or not the application at that time had been consented to by the owner of the land to which the development application relates.

[13] Clause 25D Public notice of planning agreements

Omit clause 25D (1). Insert instead:

- (1) If a planning authority proposes to enter into a planning agreement, or an agreement to amend or revoke a planning agreement, in connection with a development application, the planning authority is to ensure that public notice of the proposed agreement, amendment or revocation is given as part of and contemporaneously with, and in the same manner as, any notice of the development application that is required to be given by the planning authority by or under the Act.
- (1A) If a planning authority proposes to enter into a planning agreement, or an agreement to amend or revoke a planning agreement, in connection with a proposed change to a local

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Schedule 1 Amendments

environmental plan, the planning authority is to ensure that public notice of the proposed agreement, amendment or revocation is given:

- (a) if practicable, as part of and contemporaneously with, and in the same manner as, any public notice of the relevant draft local environmental plan that is required to be given by the planning authority under section 66 (1) of the Act, or
- (b) if it was not practicable for notice to be given contemporaneously, as soon as possible after, and in the same manner as, any public notice of the relevant draft local environmental plan that is required to be given by the planning authority under section 66 (1) of the Act.

BY AUTHORITY
