



New South Wales

# Environmental Planning and Assessment Amendment Regulation 2010

under the

Environmental Planning and Assessment Act 1979

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

TONY KELLY, MLC  
Minister for Planning

## Explanatory note

The object of this Regulation is to amend the *Environmental Planning and Assessment Regulation 2000*:

- (a) to extend the operation of transitional arrangements with respect to the modification of certain development consents that are taken to be approvals under Part 3A of the *Environmental Planning and Assessment Act 1979* (**the Act**), and
- (b) to clarify the requirements for a critical stage inspection in relation to certain buildings and swimming pools, and
- (c) to clarify that fees payable in respect of a request for a modification of an approval under Part 3A of the Act apply in respect of a request for a modification of a development consent that is taken to be an approval under that Part, and
- (d) to require a consent authority to forward to the Director-General of the Department of Planning a report on the number of development applications lodged and to forward an amount in respect of those development applications, and
- (e) to require the keeping of records in relation to complaints made to principal certifying authorities about development, and
- (f) to require the giving of notice of the intention to make certain orders.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 75Z, 85 (5), 109E (4), 109Q and 157 (the general regulation-making power) and clause 1 (1) of Schedule 6.

## **2010 No 513**

Clause 1 Environmental Planning and Assessment Amendment Regulation 2010

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# **Environmental Planning and Assessment Amendment Regulation 2010**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of Regulation**

This Regulation is the *Environmental Planning and Assessment Amendment Regulation 2010*.

### **2 Commencement**

This Regulation commences on 3 September 2010 and is required to be published on the NSW legislation website.

## **Schedule 1      Amendment of Environmental Planning and Assessment Regulation 2000**

**[1] Clause 8J Transitional provisions**

Omit “before 1 July 1998” from clause 8J (8) (a).

**[2] Clause 8J (8) (c)**

Omit “Division 4 of”.

**[3] Clause 8J (8A) and (8B)**

Omit clause 8J (8A). Insert instead:

(8A) Subclause (8), as in force before its substitution by the *Environmental Planning and Assessment Amendment (Miscellaneous) Regulation 2010*, applies to any development consent for which approval for the treatment of the consent as an approval for the purposes of section 75W of the Act:

- (a) was given before that substitution, or
- (b) is given after that substitution, but where the application for the approval was made before that substitution.

(8B) The Director-General may waive any fee payable in respect of an application under section 75W of the Act if the application relates to a development consent that is taken to be an approval under Part 3A of the Act and a fee has been paid in respect of the application under section 96 of the Act.

**[4] Clause 162A Critical stage inspections required by section 109E (3) (d)**

Omit clause 162A (7A) (a) and (b). Insert instead:

- (a) in the case of a swimming pool, as soon as practicable after the barrier (if one is required under the *Swimming Pools Act 1992*) has been erected,
- (b) in the case of a class 2, 3, 4, 5, 6, 7, 8 or 9 building, after the commencement of the excavation for, and before the placement of, the first footing.

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**[5] Clause 245K Fee for request for modification of a Minister's approval to carry out a project or approval of a concept plan**

Omit clause 245K (1). Insert instead:

- (1) The fee payable for consideration of a request for modification of any of the following is to be determined by the Director-General in accordance with this clause:
  - (a) the approval of the Minister for a project under Part 3A of the Act,
  - (b) the approval of a concept plan under that Part,
  - (c) a development consent that is taken to be an approval under that Part.

**[6] Clause 256A Proportion of development application fees to be remitted to Director-General**

Omit clause 256A (2) and (3). Insert instead:

- (2) The consent authority must forward to the Director-General:
  - (a) on or before the 14th day of each month, a report in relation to development applications lodged with it during the previous month containing such information, and being prepared in such form, as the Director-General may determine, and
  - (b) on or before the 28th day of each month, the total amount set aside under subclause (1) in relation to those development applications.

**[7] Clause 267A**

Insert after clause 267:

**267A Records relating to complaints**

- (1) A principal certifying authority for development must keep a written record of each complaint received by the authority in relation to the development and any action taken by the authority or response made in relation to the complaint.
- (2) The record must be kept for a period of 10 years from the date on which the complaint was received by the principal certifying authority.

**[8] Clause 281A**

Insert after clause 281:

**281A Notice of orders under Division 2A of Part 6 of the Act**

- (1) If a consent authority (other than a council) proposes to give an order under Division 2A of Part 6 of the Act in relation to building work or subdivision work for which the consent authority is not the principal certifying authority, the consent authority must give the principal certifying authority notice of its intention to give the order.
- (2) A notice required to be given under subclause (1) by a consent authority or under section 121H (5) of the Act by a council must be given within 7 days after the notice of intention to give the order concerned is given under section 121H (1) of the Act.