



New South Wales

# Environmental Planning and Assessment Amendment (Miscellaneous) Regulation 2012

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*.

BRAD HAZZARD, MP  
Minister for Planning and Infrastructure

## Explanatory note

The objects of this Regulation are as follows:

- (a) to amend the *Environmental Planning and Assessment Act 1979* (**the Act**) with respect to arrangements for changing the status of development from a Part 3A project to State significant infrastructure or State significant development and to preserve consent arrangements for certain development applications made before the introduction of joint regional planning panels that would otherwise be subject to determination by such a panel,
- (b) to make a number of miscellaneous amendments to the *Environmental Planning and Assessment Regulation 2000* (including to specify the rate of the contributions levy for development on land subject to the contributions plan for the Chatswood CBD, to set out the functions of the Director-General with respect to requests by proponents to have specified development declared to be State significant development, to provide for the fee payable for the exercise of those functions and to confirm that the Western Lands Commissioner is a public authority for the purposes of the Act).

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 89G (c), 94A, 115ZF (5), 137 and 157 (the general regulation-making power) of that Act and clause 1 of Schedule 6 and clause 10 of Schedule 6A to that Act.

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Environmental Planning and Assessment Amendment (Miscellaneous)  
Clause 1 Regulation 2012

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**Environmental Planning and Assessment Amendment  
(Miscellaneous) Regulation 2012**

under the

Environmental Planning and Assessment Act 1979

**1 Name of Regulation**

This Regulation is the *Environmental Planning and Assessment Amendment (Miscellaneous) Regulation 2012*.

**2 Commencement**

This Regulation commences on the day on which it is published on the NSW legislation website.

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## **Schedule 1      Amendment of Environmental Planning and Assessment Act 1979 No 203**

### **[1]      Schedule 6A Transitional arrangements—repeal of Part 3A**

Omit clause 5 (1). Insert instead:

- (1) Specified development on specified land that was a project to which Part 3A applied immediately before its repeal may be declared to be State significant infrastructure by an order of the Minister (published in the Gazette).

### **[2]      Schedule 6A, clause 5 (5) and (6)**

Insert after clause 5 (4):

- (5) If a single proposed development comprises development that is only partly State significant infrastructure declared under this clause, the remainder of the development (except so much of the remainder of the development as is State significant development or as the Director-General determines is not sufficiently related to the State significant infrastructure):
  - (a) may be carried out without development consent under Part 4 of the Act, and
  - (b) is also declared to be State significant infrastructure for the purposes of the Act.
- (6) State significant infrastructure declared under this clause is taken to be State significant infrastructure declared under section 115U (4).

### **[3]      Schedule 6A, clause 6 (1)**

Omit clause 6 (1). Insert instead:

- (1) Specified development on specified land that was a project to which Part 3A applied immediately before its repeal may be declared to be State significant development by an order of the Minister (published in the Gazette).

### **[4]      Schedule 6A, clause 6 (4) and (5)**

Insert after clause 6 (3):

- (4) If a single proposed development comprises development that is only partly State significant development declared under this clause, the remainder of the development is also declared to be State significant development (except so much of the remainder

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of the development as the Director-General determines is not sufficiently related to the State significant development).

- (5) State significant development declared under this clause is taken to be State significant development declared under section 89C (3).

### [5] Schedule 6A, clause 15 (1)

Omit the subclause. Insert instead:

- (1) If:
- (a) a development application was made but not determined before the commencement of Schedule 4A and a regional panel was exercising the consent authority functions of the council when the application was made, and
  - (b) the regional panel ceased to exercise those functions on the commencement of that Schedule,
- the council may exercise those functions.

### [6] Schedule 6A, clause 19

Insert after clause 18:

#### **19 Existing development applications not to be determined by regional panels**

- (1) This clause applies to a development application for development if:
- (a) the development application was made before 1 July 2009 and not finally determined before the commencement of Schedule 4A, and
  - (b) the development is development specified in Schedule 4A.
- (2) A development application to which this clause applies is to be dealt with as if it were for development not specified in Schedule 4A.
- (3) This clause applies to the determination of a development application before the commencement of this clause.

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## Schedule 2 Amendment of Environmental Planning and Assessment Regulation 2000

### [1] Clause 25K Section 94A levy—maximum percentage

Insert at the end of the Table to clause 25K (1) (b):

**Land identified in map 1 to the *Chatswood Central Business District (CBD) Section 94A Development Contributions Plan 2011*, as adopted by Willoughby City Council on 21 November 2011**

Up to and including \$100,000	Nil
More than \$100,000, up to and including \$200,000	0.5 per cent
More than \$200,000, up to and including \$250,000	1 per cent
More than \$250,000	3 per cent

### [2] Clause 124G

Insert after clause 124F:

#### **124G Director-General's functions with respect to proposed orders under section 89C (3) of the Act**

The Director-General may exercise the following functions in relation to the making of an order under section 89C (3) of the Act declaring specified development on specified land to be State significant development:

- (a) the receipt of a request made by the proponent for the making of the proposed order,
- (b) the preparation and provision of a report to the Planning Assessment Commission to assist the Commission to advise the Minister on the State or regional planning significance of the proposed development,
- (c) consultation with councils and other relevant agencies for the purpose of preparing that report.

### [3] Clause 198 Erection and occupation of buildings and subdivision of land

Omit “(other than critical State significant infrastructure)” from clause 198 (2).

### [4] Clause 198 (2)

Insert “section 81A or” before “Part 4A”.

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**[5] Clause 198 (3) (a)**

Omit “if this Part did not apply to the”.

Insert instead “if the development was not”.

**[6] Clause 263 Other fees**

Insert after clause 263 (2):

- (3) The Director-General may, under section 137 (1A) of the Act, require a proponent who has made a request referred to in clause 124G for an order that specified development be declared State significant development under section 89C (3) of the Act to pay a fee of an amount determined by the Director-General that does not exceed the reasonable costs incurred by the Department in exercising the functions under clause 124G in respect of that request.

**[7] Clause 277 Public authorities**

Insert at the end of the clause:

- (2) To avoid doubt, the Western Lands Commissioner is prescribed as a public authority for the purposes of the definition of *public authority* in section 4 (1) of the Act.

**[8] Schedule 2 Environmental impact statements**

Omit clause 13. Insert instead:

**13 Environmental assessment requirements of Director-General**

The responsible person must ensure that an environmental impact statement complies with the environmental assessment requirements that have been notified to the proponent by the Director-General under section 115Y of the Act.