



New South Wales

Environmental Planning and Assessment Amendment (Three Ports) Regulation 2014

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*.

PRU GOWARD, MP
Minister for Planning

Explanatory note

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

- (a) to make further provision in relation to inspections for certain building work carried out at Port Botany, Port Kembla and the Port of Newcastle,
- (b) to make further provision for the exemption of that building work from the requirement for an occupation certificate under the *Environmental Planning and Assessment Act 1979*,
- (c) to make law revision amendments, including the updating of cross-references to *State Environmental Planning Policy (Port Botany and Port Kembla) 2013* to reflect the renaming of that Policy as *State Environmental Planning Policy (Three Ports) 2013* on 31 May 2014.

Related amendments are contained in the *Building Professionals Amendment (Categories of Accreditation) Regulation 2014*.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 109E (4), 109M (2) (c), 109Q (1) (b) and 157 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Three Ports) Regulation 2014*.

2 Commencement

This Regulation commences on 31 May 2014 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2000

- [1] **Clauses 100 (8), 136J (2), 156 (1) (c) and 277 (3) and clause 4B of Schedule 1**
Omit “*State Environmental Planning Policy (Port Botany and Port Kembla) 2013*” wherever occurring.
Insert instead “*State Environmental Planning Policy (Three Ports) 2013*”.
- [2] **Clause 156 Occupation and use of new buildings: section 109M (2)**
Omit clause 156 (1) (c). Insert instead:
(c) the fact that the building is a structure resulting from building work to which clause 162AB applies.
- [3] **Clause 160A Prescribed persons—subdivision certificates**
Insert after clause 160A (g):
(h) port operator of the Port of Newcastle within the meaning of the *Ports and Maritime Administration Act 1995*.
- [4] **Clause 162AB**
Omit the clause. Insert instead:
- 162AB Critical stage inspections and other matters for certain structures at Ports Botany and Kembla and Port of Newcastle**
- (1) This clause applies to any building work on land to which *State Environmental Planning Policy (Three Ports) 2013* applies if that work results in a structure that:
- (a) does not have a classification under the *Building Code of Australia*, or
(b) is, or is of a kind, declared by the Director-General (by notice published in the Gazette) to be a structure to which this paragraph applies.
- (2) A principal certifying authority (*PCA*) for building work to which this clause applies is required to carry out (or to be satisfied that another certifying authority has carried out) inspections in respect of that work on the occasions specified by this clause (and on such other occasions as may be required by the PCA) before the use of the structure may commence.
- (3) The occasions on which inspections (*critical stage inspections*) must be carried out are:
- (a) after excavation for, and prior to the placement of, any footings, and
(b) prior to pouring any in-situ reinforced concrete building element, and
(c) on completion of the building work.
- (4) Except as provided by subclause (5), the critical stage inspections may be carried out by the PCA or, if the PCA agrees, by another certifying authority.
- (5) The critical stage inspection required to be carried out on completion of the building work must be carried out by the PCA.
- (6) Before carrying out that critical stage inspection, the PCA is required to be satisfied that the PCA has been provided with all certificates that the PCA is required to be provided with as a condition, under *State Environmental Planning Policy (Three Ports) 2013*, of any complying development certificate authorising the building work.

[5] Clause 162B Record of inspections conducted under section 109E (3) of the Act and clauses 162A and 162AB

Omit clause 162B (1). Insert instead:

- (1) A certifying authority (whether or not a principal certifying authority) must make a record of each of the following inspections carried out by the certifying authority:
 - (a) each critical stage inspection under clause 162A or 162AB, and
 - (b) each inspection carried out because it was required by the principal certifying authority under section 109E (3) (d) of the Act or clause 162AB.

[6] Clause 162B (2), note

Omit “(see clause 205)”.

Insert instead “(see the regulations made under the *Building Professionals Act 2005*)”.

[7] Clause 162C Progress inspection unavoidably missed

Omit “162AB (4) (d)” from clause 162C (6). Insert instead “162AB (3) (c)”.