



New South Wales

Environmental Planning and Assessment Amendment (Transitional) Regulation 2016

under the

Environmental Planning and Assessment Act 1979

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

ROBERT STOKES, MP
Minister for Planning

Explanatory note

The object of this Regulation is to clarify the application of the transitional arrangements in Schedule 6A to the *Environmental Planning and Assessment Act 1979* following the repeal of Part 3A of that Act.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including clause 1 of Schedule 6 and clause 10 of Schedule 6A.

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1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Transitional) Regulation 2016*.

2 Commencement

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

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

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

Omit clause 2 (8).

[2] Schedule 6A, clause 3 Continuation of Part 3A—transitional Part 3A projects

Insert after clause 3 (2):

(2A) To avoid doubt, on and after the repeal of Part 3A of this Act:

(a) Part 4 of this Act does not operate to require development consent by the Minister or other consent authority, and

(b) Part 5.1 of this Act does not operate to require the approval of the Minister,

for any project, or for any part of a project, that is a transitional Part 3A project and that is an approved project (whether approved before or after the repeal of Part 3A).

[3] Schedule 6A, clause 3B Provisions applying with respect to approval of concept plans

Omit “After the repeal of Part 3A, the following provisions apply (despite anything to the contrary in section 75P (2)) if approval to carry out any development to which this clause applies is subject to Part 4 or 5 of the Act” in clause 3B (2).

Insert instead “After the repeal of Part 3A, the following provisions apply to any such development (whether or not a determination was made under section 75P (1) (b) when the concept plan was approved)”.

[4] Schedule 6A, clause 3B (2) (g)

Omit the paragraph. Insert instead:

(g) this clause applies instead of section 75P (2), but any direction, order or determination made under section 75P (2) in connection with the concept plan continues to have effect.

[5] Schedule 6A, clause 3B (3)–(6)

Insert after clause 3B (2):

(3) If a determination was not made under section 75P (1) (b) in relation to the project (or any stage of the project) when any such concept plan was approved and the project (or that stage) can no longer be approved under Part 3A, Part 4 is taken to apply to the carrying out of the development in relation to the project (or that stage) for the purposes of subclause (2) (unless an environmental planning instrument provides that it is development that may be carried out without development consent or it is exempt development).

(4) For the purposes of determining whether development to which Part 4 applies is State significant development, a provision of this clause that permits the development to be carried out with development consent under Part 4 is taken to be a provision of an environmental planning instrument.

(5) This clause does not apply to development that is State significant infrastructure.

- (6) The amendments made to this Schedule by the *Environmental Planning and Assessment Amendment (Transitional) Regulation 2016* extend to things done before the commencement of those amendments.