



New South Wales

Environmental Planning and Assessment Amendment (Siding Spring Observatory) 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 amend the *Environmental Planning and Assessment Regulation 2000*:

- (a) to require a consent authority to take into consideration the *Dark Sky Planning Guideline* prepared by the Secretary of the Department of Planning and Environment when determining a development application for:
 - (i) development on land within the local government area of Coonamble, City of Dubbo, Gilgandra or Warrumbungle Shire (being the local government areas closest to the Siding Spring Observatory near Coonabarabran), or
 - (ii) regional development, State significant development or designated development on land within 200 kilometres of the observatory, and
- (b) to require a proponent to take into consideration the *Dark Sky Planning Guideline* when preparing an environmental impact statement for State significant infrastructure on land within 200 kilometres of the observatory, and
- (c) to provide that a certifying authority cannot issue an occupation certificate in relation to a dwelling house, dual occupancy or secondary dwelling that is complying development on land within the local government area of Coonamble, City of Dubbo, Gilgandra or Warrumbungle Shire unless certain standards are met with respect to outside lighting so as to limit the amount of light pollution generated by such buildings in order to protect the observing conditions at the observatory, and
- (d) to include a savings and transitional provision and to make statute law revision amendments.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 79C (1) (a) (iv), 109H, 115ZM (e) and 157 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Siding Spring Observatory) Regulation 2016*.

2 Commencement

This Regulation commences 56 days after the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2000

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

Dark Sky Planning Guideline means the *Dark Sky Planning Guideline* prepared by the Secretary and published in the Gazette.

Note. The Guideline is available on the website of the Department.

Siding Spring Observatory means the land owned by the Australian National University at Siding Spring and the buildings and equipment on that land.

Standard Instrument means the standard instrument set out in the *Standard Instrument (Local Environmental Plans) Order 2006*.

[2] Clause 25AD Further transitional provisions: 2005 Amending Act

Omit “adopts the provisions of a standard instrument (as referred to in section 33A of the Act)” from section 25AD (2).

Insert instead “adopts the applicable mandatory provisions of the Standard Instrument”.

[3] Clauses 41 (3), 98D (3), 124B (2), 273 (8) and 285 (3) and Schedule 4, clause 7A (3)

Omit “the standard instrument set out in the *Standard Instrument (Local Environmental Plans) Order 2006*” wherever occurring.

Insert instead “the Standard Instrument”.

[4] Clause 92 Additional matters that consent authority must consider

Insert after clause 92 (1) (c):

(d) in the case of the following development, the *Dark Sky Planning Guideline*:

- (i) any development on land within the local government area of Coonamble, City of Dubbo, Gilgandra or Warrumbungle Shire,
- (ii) development of a class or description included in Schedule 4A to the Act, State significant development or designated development on land less than 200 kilometres from the Siding Spring Observatory.

[5] Clause 92, Table

Omit “*” wherever occurring.

[6] Clause 92, Table

Omit “Copmanhurst”, “Hastings”, “Maclean” and “Pristine Waters”.

Insert in alphabetical order “Clarence Valley” and “Port Macquarie–Hastings”.

[7] Clause 92, Note

Omit the note.

[8] Clauses 130AB (4) and 136AB (3)

Omit “has been prepared under the *Standard Instrument (Local Environmental Plans) Order 2006* and made as provided by section 33A (2) of the Act” wherever occurring.

Insert instead “adopts the applicable mandatory provisions of the Standard Instrument”.

[9] Clause 154D

Insert after clause 154C:

154D Lighting affecting observing conditions at Siding Spring Observatory

- (1) For the purposes of section 109H of the Act, a certifying authority for complying development must not issue an occupation certificate (whether interim or final) for a dwelling house, dual occupancy or secondary dwelling on land in the local government area of:
 - (a) Coonamble, City of Dubbo, Gilgandra or Warrumbungle Shire, if any dwelling in the dwelling house, dual occupancy or secondary dwelling has an outside light fitting other than a shielded light fitting, or
 - (b) Coonamble, Gilgandra or Warrumbungle Shire, if any dwelling in the dwelling house, dual occupancy or secondary dwelling has more than 7 shielded outside light fittings or more than 5 such light fittings that are not automatic light fittings.
- (2) In this clause:

automatic light fitting means a light fitting that is activated by a sensor and switches off automatically after a period of time.

dwelling house, dual occupancy and ***secondary dwelling*** have the same meanings as they have in the Standard Instrument.

outside light fitting means a light fitting that is attached or fixed outside, including on the exterior of, a building.

shielded light fitting means a light fitting that does not permit light to shine above the horizontal plane.

[10] Clause 193A

Insert after clause 193:

193A EIS for infrastructure on land within 200km of Siding Spring Observatory

For the purposes of section 115ZM (e) of the Act, a proponent must, when preparing an environmental impact statement for State significant infrastructure on land less than 200 kilometres from the Siding Spring Observatory, take into consideration the *Dark Sky Planning Guideline*.

[11] Schedule 7 Savings and transitional provisions

Insert at the end of the Schedule with appropriate Part and clause numbering:

Part Provision consequent on making of Environmental Planning and Assessment Amendment (Siding Spring Observatory) Regulation 2016

Existing applications

If a development application or an application for an occupation certificate is made before the commencement of the *Environmental Planning and Assessment Amendment (Siding Spring Observatory) Regulation 2016* and the application has not been finally determined before that commencement, the application must be determined as if that Regulation had not been made.

Existing environmental impact statements

If a proponent has been notified of environmental assessment requirements by the Secretary under section 115Y (4) of the Act before the commencement of the *Environmental Planning and Assessment Amendment (Siding Spring Observatory) Regulation 2016*, any environmental impact statement prepared by or on behalf of the proponent for the purposes of the environmental assessment may be prepared as if that Regulation had not been made.