



New South Wales

# Environmental Planning and Assessment Amendment (Public Exhibition) Regulation 2020

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*.

ROBERT STOKES, MP  
Minister for Planning and Public Spaces

## Explanatory note

The object of this Regulation is to require various notices and other documents under the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000* to be published online instead of in a local newspaper. Online publication will be on the relevant council's website and if the consent authority is the Minister for Planning and Public Spaces, the Independent Planning Commission or a public authority, online publication will be on the NSW planning portal.

The amendments relate to the following notices and documents—

- (a) draft and approved development control plans and the amendment or repeal of development control plans,
- (b) draft and approved contributions plans and the amendment or repeal of contributions plans,
- (c) development applications and applications for modifications of development consents for designated development, State significant development, nominated integrated development, threatened species development and Class 1 aquaculture development,
- (d) notice of the granting of a development consent or the issue of a complying development certificate,
- (e) environmental impact statements and related environmental assessment requirements,
- (f) draft and adopted development plans and the amendment of development plans (in relation to paper subdivisions),

This Regulation also makes other minor amendments of a law revision nature.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 3.45, 4.39(d), 4.59, 4.64, 5.6, 5.8(1) and 10.13 (the general regulation-making power) and clause 6 of Schedule 7.

## **Environmental Planning and Assessment Amendment (Public Exhibition) Regulation 2020**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of Regulation**

This Regulation is the *Environmental Planning and Assessment Amendment (Public Exhibition) Regulation 2020*.

### **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 Regulation 2000**

**[1]    Clause 3 Definitions**

Omit the definition of *local newspaper* from clause 3(1).

**[2]    Clause 3(4)**

Insert after clause 3(3)—

- (4) A reference in this Regulation to a consent authority's website means—
- (a) if the consent authority is a council, local planning panel or regional panel—the website of the council or councils of the area in which the development concerned is to be carried out, or
  - (b) if the consent authority is the Minister, the Independent Planning Commission or a public authority—the NSW planning portal.

**[3]    Clause 6 When is public notice given?**

Omit the clause.

**[4]    Clause 18**

Omit clauses 18 and 19. Insert instead—

**18    Public exhibition of draft development control plans**

Following the preparation of a draft development control plan, the council must publish the following on its website—

- (a) the draft development control plan,
- (b) any relevant local environmental plan or deemed environmental planning instrument,
- (c) the period during which submissions about the draft plan may be made to the council.

**[5]    Clause 21 Approval of development control plans**

Omit “give public notice of its decision in a local newspaper” from clause 21(2).

Insert instead “publish notice of its decision on its website”.

**[6]    Clause 21(4)**

Omit “public notice of its approval is given in a local newspaper, or on a later date specified in the notice”.

Insert instead “notice of the council's decision to approve the plan is published on its website, or on a later date specified in the notice”.

**[7]    Clause 22, heading**

Omit the heading. Insert instead—

**22    Amendment or repeal of development control plan**

**[8]    Clause 22(2)(b)**

Omit the paragraph. Insert instead—

- (b) by publishing notice of the decision to repeal the plan on its website.

**[9] Clause 22(3) and (4)**

Insert after clause 22(2)—

- (3) At least 14 days before repealing a development control plan under subclause (2)(b), the council must publish notice of its intention to repeal the plan, and its reasons for the repeal, on its website.
- (4) The repeal of a development control plan under subclause (2)(b) takes effect on the date on which the notice is published on the council's website.

**[10] Clause 22A Amendment or revocation of development control plan at Minister's direction**

Omit "give public notice in a local newspaper of the making of the development control plan not later than 14 days after making the plan" from clause 22A(3).

Insert instead " , not later than 14 days after making a development control plan, publish notice of the making of the plan on its website".

**[11] Clause 23 Procedure for repealing a development control plan by public notice**

Omit the clause.

**[12] Clause 24 Application of Part to development control plans made by Planning Secretary**

Insert after clause 24(b)—

- (c) a reference to a council's website is taken to be a reference to the NSW planning portal.

**[13] Clause 28**

Omit clauses 28 and 29. Insert instead—

**28 Public exhibition of draft contributions plans**

Following the preparation of a draft contributions plan, the council must publish the following on its website—

- (a) the draft contributions plan and any supporting documents,
- (b) the period during which submissions about the draft plan may be made to the council.

**[14] Clause 31 Approval of contributions plan by council**

Omit "give public notice of its decision in a local newspaper" from clause 31(2).

Insert instead "publish notice of its decision on its website".

**[15] Clause 31(4)**

Omit "public notice of its approval is given in a local newspaper, or on a later date specified in the notice".

Insert instead "notice of the council's decision to approve the plan is published on its website, or on a later date specified in the notice".

**[16] Clause 32, heading**

Omit the heading. Insert instead—

**32 Amendment or repeal of contributions plan**

**[17] Clause 32(2)(b)**

Omit the paragraph. Insert instead—

- (b) by publishing notice of the decision to repeal the plan on its website.

**[18] Clause 32(2A) and (2B)**

Insert after clause 32(2)—

- (2A) At least 14 days before repealing a contributions plan under subclause (2)(b), the council must publish notice of its intention to repeal the plan, and its reasons for the repeal, on its website.
- (2B) The repeal of a contributions plan under subclause (2)(b) takes effect on the date on which the notice is published on the council's website.

**[19] Clause 33 Procedure for repealing a contributions plan by public notice**

Omit the clause.

**[20] Clause 49 Persons who can make development applications**

Omit clause 49(2). Insert instead—

- (2) The consent in writing of the owner of the land is not required for a development application made by a public authority, or for a development application for public notification development, if the applicant instead gives notice of the application—
  - (a) to the owner of the land in writing before the application is made, or
  - (b) by publishing a notice no later than 14 days after the application is made—
    - (i) in a newspaper circulating in the area in which the development is to be carried out, and
    - (ii) in the case of an application made by a public authority, on the public authority's website, or, in the case of public notification development, on the NSW planning portal.

**[21] Part 6, Division 5, heading**

Insert “, State significant development, nominated integrated development, threatened species development and Class 1 aquaculture development” after “development”.

**[22] Clauses 77 and 78**

Omit clauses 77–80. Insert instead—

**77 Notice of development applications**

- (1) As soon as practicable after a development application is lodged with the consent authority, the consent authority must—
  - (a) publish notice of the application on the consent authority's website, and
  - (b) give notice of the application to—
    - (i) the public authorities (other than relevant concurrence authorities or approval bodies) that, in the opinion of the consent authority, may have an interest in the determination of the application, and
    - (ii) in the case of a development application other than designated development—the persons that, in the opinion of the consent authority, own or occupy the land adjoining the land to which the

application relates (unless the notice is in respect of an application for public notification development).

- (2) The notice must contain the following information—
- (a) a description (including the address) of the land on which the development is proposed to be carried out,
  - (b) the name of the applicant and the consent authority,
  - (c) a description of the proposed development,
  - (d) whether or not the development is designated development, nominated integrated development, threatened species development, Class 1 aquaculture development or State significant development,
  - (e) a statement that the development application and the documents accompanying the application, including any environmental impact statement, are publicly available on the consent authority's website for the period specified in Schedule 1 to the Act for that kind of development,
  - (f) a statement that any person, during the submission period specified in Schedule 1 to the Act for that kind of development, may make submissions to the consent authority concerning the development application and that the submissions must specify the grounds of objection (if any),
  - (g) if the proposed development is also integrated development—
    - (i) a statement that the development is integrated development, and
    - (ii) a statement of the approvals that are required and the relevant approval bodies for those approvals,
  - (h) in the case of State significant development—whether the Minister has directed that a public hearing should be held,
  - (i) in the case of designated development—a statement that, unless the Independent Planning Commission has conducted a public hearing, a person may appeal to the Land and Environment Court if the person makes a submission by way of objection and is dissatisfied with the determination of the consent authority to grant development consent,
  - (j) in the case of designated development—a statement that, if the Independent Planning Commission conducts a public hearing, the Commission's determination of the application is final and not subject to appeal.
- (3) For the purposes of this clause—
- (a) if land is a lot in a strata scheme (within the meaning of the *Strata Schemes Development Act 2015*), a notice to the owners corporation is taken to be notice to the owner or occupier of each lot within the strata scheme, and
  - (b) if land is a lot in a leasehold strata scheme (within the meaning of the *Strata Schemes Development Act 2015*), a notice to the lessor under the leasehold strata scheme and to the owners corporation is taken to be notice to the owner or occupier of each lot within the leasehold strata scheme, and
  - (c) if land is owned or occupied by more than one person, a notice to one owner or one occupier is taken to be notice to all the owners and occupiers of that land.

**78 Notice of designated development application must be exhibited on relevant land**

A notice for a development application for designated development must be exhibited on the land to which the development application relates and must—

- (a) be displayed on a signpost or board, and
- (b) be clear and legible, and
- (c) be headed in capital letters and bold type “**DEVELOPMENT PROPOSAL**”, and
- (d) contain the following information—
  - (i) a statement that the development application has been lodged,
  - (ii) the name of the applicant,
  - (iii) a brief description of the development application,
  - (iv) a statement that the development application and the documents accompanying the application, including any environmental impact statement, are publicly available on the consent authority’s website for the period specified in Schedule 1 to the Act for designated development, and
- (e) if practicable, be capable of being read from a public place.

**[23] Part 6, Division 6**

Omit the Division. Insert instead—

**Division 6 Additional requirements for State significant development**

**82 Additional requirements for State significant development**

- (1) The Planning Secretary is to provide to an applicant for State significant development the submissions, or a summary of the submissions, received in relation to the application during the submission period.
- (2) The Planning Secretary may, by notice in writing, require the applicant to provide a written response to any issues raised in those submissions as the Planning Secretary considers necessary.
- (3) For the purposes of section 4.39(d) of the Act, the Planning Secretary is to make the following documents that relate to a development application for State significant development available on the NSW planning portal—
  - (a) the Planning Secretary’s environmental assessment requirements under Part 2 of Schedule 2,
  - (b) the development application, including any accompanying documents or information and any amendments made to the development application,
  - (c) any submissions received during the submission period and any response provided under subclause (2),
  - (d) any environmental assessment report prepared by the Planning Secretary,
  - (e) any development consent or modification to a development consent,
  - (f) any application made for a modification to a development consent, including any accompanying documents or information,

- (g) any documents or information provided to the Planning Secretary by the applicant in response to submissions.

**[24] Part 6, Division 7**

Omit the heading. Insert instead—

**Division 7 Additional requirements for nominated integrated development, threatened species development and Class 1 aquaculture development**

**[25] Clauses 87, 88, 89 and 91**

Omit the clauses.

**[26] Clause 118 Applications under sections 4.55(2) and 4.56 for modification of certain development consents**

Omit “in a local newspaper by the relevant consent authority” from clause 118(2).

Insert instead “on the website of the relevant consent authority”.

**[27] Clause 118(2)(a) and (b)**

Omit “by the consent authority” wherever occurring.

Insert instead “the website of the consent authority”.

**[28] Clause 118(2)(c)**

Omit “by the council or councils”. Insert instead “the website of the council or councils”.

**[29] Clause 124**

Omit the clause. Insert instead—

**124 Validity of development consents**

For the purposes of section 4.59 of the Act, a notice relating to the granting of a development consent must be published on the consent authority’s website and must describe the land and the development the subject of the development consent.

**[30] Clause 137**

Omit the clause. Insert instead—

**137 Validity of complying development certificates**

For the purposes of section 4.59 of the Act, a notice relating to the issue of a complying development certificate that describes the land and the development the subject of the certificate must be published on the consent authority’s website.

**[31] Clause 193 Owner’s consent or notification**

Omit clause 193(4). Insert instead—

**(4) Notification if consent not required**

If the consent of the owner of the land is not required for an infrastructure application or modification request under this clause, the proponent is required to publish notice of the application or request on the NSW planning portal and by—



- (a) written notice to the owner of the land before, or no later than 14 days after, the application or request is made, or
- (b) advertisement published in a newspaper circulating in the area in which the infrastructure is to be carried out—
  - (i) in the case of an infrastructure application—at least 14 days before the environmental impact statement that relates to the infrastructure is placed on public exhibition, or
  - (ii) in the case of a modification request—no later than 14 days after the request is made.

**[32] Clause 196 Publicly available documents**

Omit “Department’s website or by providing, on that website, an electronic link to the document on another website” from clause 196(1).

Insert instead “NSW planning portal”.

**[33] Clause 233, heading**

Omit the heading. Insert instead—

**233 Publication of environmental impact statements**

**[34] Clause 233(d) and (e)**

Omit the paragraphs. Insert instead—

- (d) the website on which the environmental impact statement will be publicly available,
- (e) a statement that any person may, before the specified closing date, make written representations to the determining authority about the proposed activity.

**[35] Clause 233(2)–(4)**

Insert at the end of clause 233—

- (2) The notice is to be published on the NSW planning portal.
- (3) The period within which the notice may be inspected (as referred to in section 5.8(1) of the Act) begins on the date on which the notice is first published on the NSW planning portal.
- (4) An environmental impact statement is to be made publicly available on the website of the determining authority for the activity concerned and on the website of the council of each area affected by the activity.

**[36] Clauses 234 and 235**

Omit the clauses.

**[37] Part 14, Division 5**

Omit the Division.

**[38] Clause 266 Council to keep certain documents relating to development applications and consents**

Omit clause 266(1)(h). Insert instead—

- (h) a copy of any notice published on the council’s website in respect of the development consent as referred to in section 4.59 of the Act,

**[39] Clause 267 Council to keep certain documents relating to complying development certificates**

Omit clause 267(b). Insert instead—

- (b) a copy of any notice published on the council's website in respect of the complying development certificate as referred to in section 4.59 of the Act,

**[40] Clause 268ZB**

Omit the clause. Insert instead—

**268ZB Notice of proposed development plans and consent ballots**

- (1) An authority that proposes to adopt a development plan must, not less than 14 days before the ballot papers are issued for the consent ballot, publish on the NSW planning portal a notice containing the following information—
  - (a) that the authority proposes to adopt a development plan,
  - (b) the website on which the proposed development plan is published,
  - (c) the date by which a vote in the ballot to approve the development plan must be received and the address to which it must be sent,
  - (d) the name, contact phone number and email address of the authority.
- (2) The authority must also—
  - (a) give a copy of the notice to each council in whose area the land is situated, and
  - (b) display, on or in the vicinity of the land to which the development plan applies, a copy of the notice for not less than 28 days before the ballot closes, and
  - (c) publish the proposed development plan on a public website.

**[41] Clause 268ZJ Adoption of development plans**

Omit clause 268ZJ(1)(b). Insert instead—

- (b) the authority publishes notice of the adoption of the plan on the NSW planning portal within 28 days after the decision of the authority to adopt the plan.

**[42] Clause 268ZL Additional requirements for amendments other than minor amendments**

Omit clause 268ZL(3)(a). Insert instead—

- (a) publish a notice that complies with subclause (4) on the NSW planning portal, and