



New South Wales

Environmental Planning and Assessment Amendment (Modifications) Regulation 2021

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*.

ROB STOKES, MP
Minister for Planning and Public Spaces

Explanatory note

The object of this Regulation is to amend the *Environmental Planning and Assessment Regulation 2000* to—

- (a) provide that a consent authority may request additional information from an applicant for modification of a development consent, and
- (b) set out the days that are not included in calculating the period for deemed refusal of a modification application, and
- (c) provide for the amendment of a modification application, and
- (d) provide for the amendment of a request to modify the Minister's approval for State significant infrastructure.

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1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Modifications) Regulation 2021*.

2 Commencement

- (1) Subject to subclause (2), this Regulation commences on the day on which it is published on the NSW legislation website.
- (2) Schedule 2 commences on 1 October 2021.

Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2000

[1] Clause 121 Applications for modifications of development consents to be kept available for public inspection

Insert after clause 121(2)—

- (3) If an application for modification of a development consent is amended after the application is lodged, the application that is made available for inspection must include the details of the amendment.

[2] Clauses 121A and 121B

Insert after clause 121—

121A Consent authority may request additional information from applicant—the Act, ss 4.55(6) and 4.64(1)(q)

- (1) A consent authority may request an applicant for modification of a development consent provide the consent authority with additional information about the development that the consent authority considers necessary to properly consider the application for modification.
- (2) The request must—
 - (a) be made by means of the NSW planning portal, and
 - (b) specify a reasonable period within which the information must be provided to the consent authority.
- (3) The applicant may, by means of the NSW planning portal, notify the consent authority that the applicant will not provide the information.
- (4) An applicant is taken to have not provided the information if the applicant has not provided the information by the end of—
 - (a) the period specified under subclause (2)(b), or
 - (b) a further period allowed by the consent authority.

121B Amendment of modification application—the Act, s 4.64(1)(q)

- (1) An application for modification of a development consent may, with the agreement of the consent authority, be amended by the applicant at any time before the application is determined by lodging an amendment on the NSW planning portal.
- (2) If the amendment results in a change to the development, the applicant must provide the consent authority with details of the nature of the change to the application.

[3] Clause 122B

Insert after clause 122A—

122B Days not to be included in calculating period for deemed refusal of modification application

- (1) A day that occurs between a request by a consent authority for additional information from an applicant for modification of a development consent under clause 121A, and the earlier of the following days, is not to be included in calculating the relevant period for the application—
 - (a) the day on which the information is provided to the consent authority,

- (b) the day on which the applicant notifies, or is taken to have notified, the consent authority that the information will not be provided.
- (2) Subclause (1) applies only if the request is made within 25 days after the date on which the application for modification of the development consent is lodged on the NSW planning portal.
- (3) The following days are not to be included in calculating the relevant period for an application for modification of a development consent—
 - (a) the day on which the application is lodged on the NSW planning portal,
 - (b) the day following the day in paragraph (a).
- (4) In this clause—
relevant period for an application for modification of a development consent means the period of 40 days specified in clause 122A after which the application is taken to have been refused.

[4] Clause 196B

Insert before clause 197—

196B Amendment of request for modification of Minister's approval—the Act, s 5.29

- (1) A request to modify the Minister's approval for State significant infrastructure under the Act, section 5.25(2) may be amended by the proponent, with the agreement of the Planning Secretary, at any time before the request is determined.
- (2) The amendment must include details of the nature of the change to the request to modify the Minister's approval.

Schedule 2 Amendment of Environmental Planning and Assessment Regulation 2000 commencing 1 October 2021

Clause 196B Amendment of request for modification of Minister's approval—the Act, s 5.29

Insert after clause 196B(2)—

- (3) The amendment must be lodged on the NSW planning portal.