



New South Wales

# Environmental Planning and Assessment Amendment (Avoided Land) Regulation 2022

under the

Environmental Planning and Assessment Act 1979

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

ANTHONY ROBERTS, MP  
Minister for Planning

## Explanatory note

The objects of this Regulation are as follows—

- (a) to require a development application for development relating to certain infrastructure on avoided land to be accompanied by a statement setting out whether the activity is consistent with the *Cumberland Plain Conservation Plan Guidelines*,
- (b) to require a determining authority to notify the Secretary of the Department of Planning and Environment of a decision to carry out or modify, or to grant an approval to carry out, an activity relating to certain infrastructure on avoided land, including a statement setting out whether the determining authority considers the activity is consistent with the *Cumberland Plain Conservation Plan Guidelines*,
- (c) to update the reference to the *Mamre Road Precinct Structure Plan*.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including section 10.13 (the general regulation-making power).

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### **1 Name of Regulation**

This Regulation is the *Environmental Planning and Assessment Amendment (Avoided Land) Regulation 2022*.

### **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 2021

### [1] Section 30A

Insert after section 30—

#### 30A Infrastructure development on avoided land

- (1) This section applies to a development application relating to development on avoided land that is carried out under *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Part 2.3, Division 4, 5, 12A, 17, 18, 20, 21, 23 or 24.
- (2) The development application must be accompanied by a statement setting out whether the development is consistent with the *Cumberland Plain Conservation Plan Guidelines*.
- (3) This section does not apply to State significant development.
- (4) In this section—

*avoided land* has the same meaning as in *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 13.

*Cumberland Plain Conservation Plan Guidelines* has the same meaning as in *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 13.

### [2] Section 35 Additional requirements for development applications in certain areas of Sydney

Omit “dated June 2020 and published on the NSW planning portal” from section 35(4), definition of *relevant plan*, paragraph (d).

Insert instead “published by the Department on the commencement of *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 13 and available on the NSW planning portal”.

### [3] Part 8, Division 7

Insert after Division 6—

#### Division 7 Miscellaneous

##### 201A Requirement to notify Planning Secretary about avoided land activities—the Act, s 5.6

- (1) A determining authority for an activity carried out on avoided land under *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Part 2.3, Division 4, 5, 12A, 17, 18, 20, 21, 23 or 24 must give notice to the Planning Secretary of a decision—
  - (a) to carry out, or to grant an approval to carry out, the activity, and
  - (b) to modify the activity, whether or not the modification will reduce the overall environmental impact of the activity.
- (2) The notice must include a statement setting out whether the determining authority considers the activity is consistent with the *Cumberland Plain Conservation Plan Guidelines*.
- (3) The notice must be given within 30 days after a decision is made by the determining authority—

- (a) to carry out, or to grant an approval to carry out, the activity, or
  - (b) to modify the activity.
- (4) In this section—
- avoided land*** has the same meaning as in *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 13.
- Cumberland Plain Conservation Plan Guidelines*** has the same meaning as in *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 13.