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## PLANNING SYSTEM

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Act and regulation changes

<b>Circular</b>	PS 08–013
<b>Issued</b>	13 November 2008
<b>Related</b>	PS 07–001 January 2007

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## Consideration of draft EPIs under section 79C of the EP&A Act

This circular is to advise consent authorities that certain draft State environmental planning policies, draft regional environmental plan and draft local environmental plans are no longer required to be taken into consideration when determining development applications.

### Introduction

Consent authorities are required by section 79C(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979* (the EP&A Act) to take into consideration relevant draft environmental planning instruments (EPIs), including draft State environmental planning policies (SEPPs), draft regional environment plans (REPs) and draft local environmental plans (LEPs) when determining a development application—unless the Director-General has notified them that the making of the draft instruments have been deferred indefinitely or have not been approved.

### Draft EPIs which have not been made in 3 years from exhibition no longer to be considered (except for comprehensive LEPs).

The purpose of this circular is to inform consent authorities that draft EPIs that were exhibited prior to 1 March 2006 and have not yet been gazetted should not be considered in relation to development applications in terms of section 79C(a)(ii) of the EP&A Act.

In addition, for the purposes of section 79C(a)(ii), the Director-General hereby notifies consent authorities that any draft instruments which have not been made within 3 years of exhibition have been deferred indefinitely or have not been approved and no longer need to be taken into consideration by consent authorities when determining development applications.

This direction does not apply to comprehensive LEPs and is effective from 1 March 2009.

This direction is consistent with the recommendations of the Independent Commission Against Corruption in their recent *Report on an investigation into corruption allegations affecting Wollongong City Council Part 3*.

### Further information

An updated list of draft SEPPs is available on the Department of Planning's website at <http://www.planning.nsw.gov.au/planningsystem/sepp2.asp>

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**Important note:** This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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