



PLANNING SYSTEM

State environmental planning policies

Circular	PS 11-017
Issued	27 July 2011
Related	PS 11-014

Delegation to the Planning Assessment Commission

The purpose of this circular is to advise councils, proponents and the community of the delegation to the Planning Assessment Commission (PAC) of certain powers and functions to determine applications made by private proponents under Part 3A of the *Environmental Planning and Assessment Act 1979* (the EP&A Act).

Introduction

On 28 May 2011, the Minister for Planning and Infrastructure delegated certain powers and functions to the PAC as part of the transitional arrangements for the staged repeal of Part 3A of the EP&A Act. This circular outlines the delegations which apply to projects remaining in the Part 3A system.

Establishment of the Planning Assessment Commission

The PAC was established on 3 November 2008, with the following functions under section 23D of the EP&A Act:

- the determination of a project or concept plan when delegated to the PAC by the Minister,
- the review of any aspect of a project or concept plan, and
- the provision of advice to the Minister on a range of planning and development matters.

The Delegation

The Minister has delegated to the PAC the powers and functions under Part 3A as follows:

- determining a Part 3A project application,
- determining a concept plan application,
- modifying an approval,
- imposing conditions for the lapsing of an approval or as to the surrender of other approvals, and
- making an order to amend an environmental planning instrument to authorise the carrying out of an approved project or approved concept plan.

The delegation to the PAC will apply to the determination of applications made by private proponents.

The delegation also ensures that the PAC will determine project and modification applications where there has been a reportable political donation and modification applications where the initial project was determined by the PAC due to a reportable political donation.

If the PAC proposes to impose a condition which would require a proponent to enter into a voluntary planning agreement to which the Minister is a party, the PAC must first consult with the Minister.

Applications to be determined by the Minister

The Minister will continue to determine projects by Government agencies, as well as critical infrastructure projects by private proponents or public authorities.

Section 23(8)(a1) of the EP&A Act does not allow the function of determining critical infrastructure applications to be delegated. The Minister may, however, seek the advice of the PAC before determining these projects.

Delegation to the Department of Planning and Infrastructure

On 25 January 2010, various powers were delegated to the Director-General and senior officers at the Department to determine non-controversial Part 3A projects (defined by fewer than 25 submissions received by members of the public objecting to the proposal).

The Minister has confirmed this delegation except where the relevant local council has lodged an objection.

As the delegations to the PAC and senior Departmental officers overlap, the Department will refer project and concept plan applications lodged by private proponents to the PAC for determination where the application has:

- 25 or more submissions by way of objection from members of the public, or
- less than 25 submissions by way of objection from members of the public, but where a submission has been made by the relevant council objecting to the project, or
- been the subject of a reportable political donation or
- in circumstances where the Director General is of the view that the application should be determined by the PAC.

A similar approach will be taken for modification applications lodged by private proponents. However, in addition, modification applications will be determined by the PAC under delegation where the initial project was determined by the PAC due to a reportable political donation.

Further Information

The delegation can be found on the Department of Planning and Infrastructure's website www.planning.nsw.gov.au

For further information on the repeal of Part 3A please contact 3ainfo@planning.nsw.gov.au. Telephone enquiries can be directed through the Department's information centre on (02) 9228 6333.

Department of Planning and Infrastructure circulars are available from www.planning.nsw.gov.au/circulars

Authorised by:

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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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