

Circular	PS 10 - 005
Issued	1 April 2010
Related	

Environmental Planning and Assessment Amendment (Miscellaneous) Regulation

This circular is to advise councils, accredited certifiers and the community of the commencement of some changes to the *Environmental Planning and Assessment Regulation 2000*.

Introduction

On 26 March 2010 the *Environmental Planning and Assessment Amendment (Miscellaneous) Regulation 2010* (the Miscellaneous Regulation) was published on the NSW legislation website. The Miscellaneous Regulation commences on the date of publication.

The Miscellaneous Regulation makes a number of changes to the EP&A Regulation that follow on from a periodic review of the operation of provisions of the EP&A Regulation for major projects, infrastructure and planning for land within the growth centres.

Changes relating to major projects under Part 3A of the Act.

The Miscellaneous Regulation will allow a penalty infringement notice to be issued for breaches of the requirement to comply with the conditions of a project approval under Part 3A of the EP&A Act.

The Miscellaneous Regulation will clarify that the declaration of development as a project to which Part 3A of the EP&A Act applies will have no effect on existing development consents and approvals relating to the land. Under the revised arrangements the Minister can require the surrender of these consents or approvals as a condition of the project approval.

The revised requirements will mean that landowner's consent will be required for modifications of project approvals (where the original application also required landowner's consent).

The revised arrangements will require certain existing consents to be modified under section 75W and will

remove the need for the Minister to make a determination before considering a modification application under the existing transitional arrangements.

Savings provisions in the Miscellaneous Regulation provide that the changes do not apply to pending applications.

Changes relating to precinct planning within the Growth Centres

Once a precinct has been released for urban development certain development applications are required to be assessed for consistency against the relevant growth centre structure plan until such time a the precinct planning process has been completed and the necessary controls have been put in place.

As part of the precinct planning process the Department has identified certain land within those precincts where the existing planning framework is adequate and no additional controls need to be put in place.

The Miscellaneous Regulation removes the requirement for applications relating to that land to have to be assessed against to be assessed for consistency against the relevant growth centres structure plan.

The changes also remove the requirement for the Minister to make arrangements for the preparation of an infrastructure plan relating to the infrastructure requirements of growth centres. These matters are already dealt with as part of the existing statutory processes within the EP&A Act for the making of a determination requiring a special infrastructure contribution.

The changes also remove the requirement for the Minister to consult public authorities about declarations

that a growth centre precinct or part of a growth centre precinct is to be released for urban development because the Ministers' responsible for these authorities will already have been consulted before any decision to release a new precinct.

Reports by fire safety engineers

Existing requirements in the EP&A Regulation require compliance certificates or a report from an accredited fire safety engineer for all buildings subject to an alternative solution after 1 March 2010.

The Miscellaneous Regulation will defer this initiative until 28 February 2011 to allow the Building Professionals Board more time to conduct further investigations and consultation with stakeholders about whether this change is required.

Note referencing the requirements of the Nation Building and Jobs Plan (State Infrastructure Delivery) Act 2009

Since March 2009 the *Nation Building and Jobs Plan (State Infrastructure Delivery) Act 2009* (Nation Building Act) has required councils to include information in planning certificates about exemptions and authorisations under that Act that have been notified to that Council by the Co-ordinator General.

The Miscellaneous Regulation will insert a note in the Schedule relating to planning certificates referring to those requirements under the *Nation Building Act*. The note has no legal effect and does not alter the existing obligations on councils about planning certificates, but the note should assist councils in complying with those obligations under the *Nation Building Act*.

<http://www.legislation.nsw.gov.au>

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Further information

A copy of the *Environmental Planning and Assessment Amendment (Miscellaneous) Regulation 2010* is available on the NSW legislation website: