

PLANNING SYSTEM

State environmental planning policies

Circular	PS 11-022
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Related	PS 11-019; PS 11-020; PS 11-021 Supersedes PS 11-017

Determination of state significant applications

The purpose of this circular is to advise councils, applicants and the community of the Minister for Planning & Infrastructure's delegation of his functions to determine applications made under the *Environmental Planning and Assessment Act 1979*.

Introduction

The Minister for Planning and Infrastructure has delegated to the Planning Assessment Commission (PAC) and to senior staff of the Department of Planning and Infrastructure the power to determine a range of applications made under the *Environmental Planning and Assessment Act 1979* (the Act), including applications made under the new state significant development (SSD) and state significant infrastructure (SSI) assessment regimes.

This circular outlines these delegations and the applications to which they will apply.

Operation of the delegations

The delegations to both the PAC and senior officers of the department apply to the determination of:

- development applications, including applications for SSD
- modification applications under section 96 and 96AA of the Act
- applications for SSI and modification requests for SSI approvals under Part 5.1
- concept plan and project applications, and modification requests, for transitional Part 3A applications that remain after the repeal of Part 3A (see PS 11-021).

The delegation applies from **1 October 2011**. The delegation revokes all previous delegations of these functions to the PAC and senior officers of the department.

Delegation to the PAC

The Minister has delegated to the PAC the determination of the applications set out above, other than applications made by or on behalf of a public authority.

For the purposes of the delegation, public authority does not include a local authority. This means the PAC will be responsible for determining applications made by a local council.

The delegation extends to transitional Part 3A applications which remain critical infrastructure by virtue of Schedule 6A of the Act and are not lodged by or on behalf of a public authority (see PS 11-021).

Generally the PAC will determine all applications made by private sector proponents where:

- more than 25 members of the public have made a submission on the application, or
- the council for the area objects in writing to the application, or
- a political donation disclosure statement has been lodged with the application.

If the PAC proposes to impose a condition or term of approval which would require an applicant or proponent to enter into a voluntary planning agreement to which the Minister is a party, the PAC must consult with the Minister in respect of any such condition or term of approval before determining the application under delegation.

The Minister has also delegated the function of making a local environmental plan to the PAC where the plan is principally concerned with permitting the carrying out of SSD for development that is wholly prohibited.

The department will continue to publish completed assessment reports on its website at www.planning.nsw.gov.au.

PAC procedures

On 5 September 2011, the PAC adopted new procedures to improve the transparency of its decision making and provide communities with greater opportunities to have their say before the PAC determines an application under delegation. The procedures can be found on the PAC's website at www.pac.nsw.gov.au.

The PAC will not hold a public meeting on an application until at least 14 days after the assessment report for that application has been published by the department.

In exercising its functions the PAC is usually comprised of three members. The Minister has directed that the PAC may be comprised by:

- two or more members for the determination of applications under Part 3A, Part 4 and Part 5.1 of the Act
- one or more members for the determination of modification applications
- two or more members for the making of a local environmental plan
- one or more members for the making of an order under section 75R(3A) of the Act.

The Minister has also requested that the PAC should not be constituted by the same members in exercising the following functions:

- holding a public hearing into an application and then determining the same application
- providing advice about the State or regional significance of a development proposal and then determining an application for that proposal.

Delegation to the department

The Minister has delegated the determination of the applications set out above to senior officers of the department.

The delegation to the department ensures that only minor or non-contentious matters are determined by senior staff of the department. The delegation is restricted to the determination of applications where:

- the relevant local council has not made an objection, and
- a political disclosure statement has not been made in relation to the application, and
- there are less than 25 public submissions in the nature of objections.

Sometimes a political disclosure statement may have been made in relation to a previous related application, rather than the undetermined application under consideration. For example, the current application may be for a modification of an approval previously granted.

Where there was a political disclosure statement for the previous related application, senior officers of the department may determine the current modification application if there are less than 10 public submissions and the relevant local council has not made a submission in the nature of objection.

The department will refer applications which do not meet the terms of the department's delegation to the PAC for determination. In some circumstances the department may refer other applications to the PAC for determination as well.

Applications to be determined by the Minister

The Minister will continue to determine applications made by or on behalf a public authority, other than a local authority, which do not meet the terms of the department's delegation or the PAC's delegation.

Delegation to other authorities and councils

The Minister has also delegated his functions to other bodies for certain applications, including:

- the determination of development applications for development under \$10 million in the Redfern-Waterloo area to the City of Sydney. This replaces the Minister's delegation of these functions to the Redfern Waterloo Authority
- the determination of development applications for development under \$10 million within the Sydney Olympic Park site to the Sydney Olympic Park Authority.

Further information

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

If you have further enquiries, please contact:

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

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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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