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Related	

Environmental Planning and Assessment Amendment (Development Consents) Act 2010

This circular outlines the effect of the *Environmental Planning and Assessment Amendment (Development Consents) Act 2010* and associated changes to the Environmental Planning and Assessment Regulation 2000 for councils, accredited certifiers and the community.

Introduction

The *Environmental Planning and Assessment Amendment (Development Consents) Act 2010* (the Amending Act) commenced on 26 May 2010.

The primary purpose of the Amending Act is to extend the lapsing period of existing development consents that were subject to a reduction under section 95(2) of the *Environmental Planning and Assessment Act 1979* (the EP&A Act). The lapsing period has been extended to the maximum five years allowed by the EP&A Act.

The Amending Act prevents a consent authority from reducing the lapsing period of any consent granted to less than the maximum five year period until 1 July 2011.

The Amending Act also allows a regulation to be made setting out what does or does not constitute physical commencement.

Effects on existing development consents

As a result of the Amending Act, existing development consents subject to a lapsing period of less than five years will have their lapsing periods extended to the maximum five year period.

The extension of the lapsing period does not apply to development consents that lapsed before 22 April 2010. However, the provisions in the Amending Act

apply to consents that would have otherwise lapsed during the passage of the Bill.

Determining the new lapsing date

In order to determine if a development consent is subject to an extension of the lapsing period the following questions need to be asked:

1. Was the development consent subject to a reduction of the lapsing period under section 95(2) of the EP&A Act?
2. Was the development consent operating on 22 April 2010?

If the answer to both questions is 'yes', then the consent will not lapse until five years after the date from which the consent operated.

Period during which the Act provisions apply

Development consents granted after the Amending Act is assented to must be subject to the maximum five year lapsing period.

These arrangements will remain in place until the date of assent. The Amending Act provisions will apply until 1 July 2011.

From that date a consent authority will again be able to reduce the lapsing period to less than five years (unless a regulation is made).

The Act also allows the Minister for Planning to make a regulation to again require the minimum lapsing period to be five years.

Further information

A copy of the *Environmental Planning and Assessment Amendment (Development Consents) Act 2010* and the Environmental Planning and Assessment Regulation 2000 (as amended) are available on the NSW legislation website at <http://www.legislation.nsw.gov.au>.

Note: This and other Department of Planning circulars are published on the web at <http://www.planning.nsw.gov.au/circulars>

Authorised by:

Sam Haddad
Director-General
NSW Department of Planning

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