

<b>Circular</b>	PS 10 – 029
<b>Issued</b>	20 December 2010
<b>Related</b>	PS 08-001 and PS 10 - 018

## Changes to Infrastructure SEPP and other EPIs

This circular provides information about recent amendments to State Environmental Planning Policy (Infrastructure) 2007 (the Infrastructure SEPP) and Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (the Sydney Harbour Catchment REP), as well as consequential amendments to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP). The amendments to the Infrastructure SEPP relate to development controls for small wind turbine systems, solar energy systems, emergency services facilities, bush fire hazard reduction in SEPP 14 wetlands and coastal protection works.

### Introduction

On 17 December 2010, State Environmental Planning Policy (Infrastructure) Amendment (Miscellaneous) 2010 (the amending SEPP) was published on the NSW legislation website. The amending SEPP amends the Infrastructure SEPP as outlined below, forming the second stage of a scheduled review of the Infrastructure SEPP. The amendments are the result of extensive public and stakeholder consultation.

The amending SEPP also amends the Sydney Harbour Catchment REP (by prohibiting subdivision of land in all waterway zones) and the Codes SEPP (through consequential amendments).

All amendments made by the amending SEPP commence on 17 December 2010, except the amendments to the Infrastructure SEPP regarding coastal protection works. These amendments will commence on the same day as a provision of the *Coastal Protection and Other Legislation Amendment Act 2010* regarding preconditions to the granting of development consent relating to coastal protection works.

### Amending SEPP

#### Exempt and complying development

Changes have been made to the general requirements applying to all exempt development under the Infrastructure SEPP. General requirements and complying development certificate conditions have also been included for all complying development under the Infrastructure SEPP.

### Small wind turbine systems and solar energy systems

The amendments to the Infrastructure SEPP include new development controls for small wind turbine systems and solar energy systems (being photovoltaic electricity generating systems, solar hot water systems or solar air heating systems).

The amendments make certain small wind turbine systems and solar energy systems as permissible with consent or as exempt or complying development depending on size, scale and location. Development for the purpose of certain solar energy systems may be carried out on any land by a public authority without consent. Different requirements apply depending on the zoning of the land and whether the system is ground mounted or not ground mounted.

The amending SEPP also inserts a note in the Exempt and Complying Codes SEPP, with a reference to these provisions in the Infrastructure SEPP.

Guidelines for small wind turbine systems and solar energy systems are being released and will be available on the Department's website.

### Coastal protection works

This amendment complements the amendments to be made to the *Coastal Protection Act 1979* upon commencement of the *Coastal Protection and Other Legislation Amendment Act 2010*, and makes provisions for an appropriate assessment and approval regime for coastal protection works by both private and public landowners.

It achieves this by requiring public authorities carrying out new open coastal foreshore protection works to consider any relevant coastal zone management plan and to consult with the Coastal Panel. It also provides for specified coastal protection works to be undertaken by persons other than public authorities, with consent.

The amendment nominates the Council as the consent authority where a relevant coastal zone management plan has been approved. The Coastal Panel is the consent authority where an approved plan does not exist. The amendment also specifies heads of consideration for development consent.

### **Emergency services facilities**

The emergency services provisions in the Infrastructure SEPP have been amended to assist emergency services organisations in improving response time, and to improve the consultation undertaken in developing emergency services facilities.

The amendment expands the prescribed zones for emergency services facilities, allowing this development type in IN2 Light Industry and B1 Neighbourhood Centre zones. It also permits the NSW Ambulance Service, NSW Fire Brigades and NSW Rural Fire Service to undertake development for the purpose of an emergency services facility with consent in certain zones including residential zones.

The amendment includes a provision which requires public authorities undertaking development for the purposes of emergency services facilities without consent to consult relevant councils and occupiers of adjoining and adjacent land prior to carrying out that development.

### **Bushfire hazard reduction and SEPP 14 coastal wetlands**

The amendment to the Infrastructure SEPP allows bush fire hazard reduction work to be carried out without consent on land that is subject to State Environmental Planning Policy No 14 – Coastal Wetlands 1985 (SEPP 14) in specified circumstances.

Any such works must be consistent with Standards for Bush Fire Reduction Works in SEPP 14 - Coastal Wetlands, available on the Department's website. The standards are designed to ensure that any necessary bush fire hazard reduction works in SEPP 14 coastal wetlands have minimal environmental impact.

Under the new provisions, bush fire hazard reduction works may only be carried out on SEPP 14 land within 20m of a specified building (such as a dwelling house or educational establishment)

that was in existence immediately before 17 December 2010, and only if a notice has been issued under the *Rural Fires Act 1997* or the Rural Fire Service Commissioner is carrying out the work. The works must not involve burning.

### **Subdivision of waterways**

This amendment clarifies that clauses 68(4) (regarding development for the purpose of wharf or boating facilities) and 129(1) (regarding development for the purpose of waterway or foreshore management activities) of the Infrastructure SEPP do not permit the subdivision of any land without consent.

An amendment has also been made to the Sydney Harbour Catchment REP to expressly prohibit subdivision of land in all waterway zones under the REP.

### **Savings and transition**

The amendments to the Infrastructure SEPP and the Sydney Harbour Catchment SEPP regarding subdivision of waterways will extend to pending development applications and Part 5 activities.

All other amendments made by the amending SEPP will not apply to applications for development consent that have been lodged prior to the commencement of the amendments, nor where a determining authority has begun assessment of an activity under Part 5 of the Act prior to the commencement of the amendment.

### **Further information**

The State Environmental Planning Policy (Infrastructure) 2007 is available from the NSW legislation website at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

This and other planning circulars are available from the Department's website at [www.planning.nsw.gov.au/circulars](http://www.planning.nsw.gov.au/circulars).

### **Authorised by:**

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