

## Environment & Planning Alert

# Changes to the assessment of certain Major Development projects in NSW

May 2011

### Outline

The NSW Government has announced that it will introduce a Bill to repeal Part 3A of the *Environmental Planning & Assessment Act 1979* (**EP&A Act**). The Bill will include a new regime for the assessment and determination of projects of 'genuine' State significance.

On 13 May 2011, pending the repeal of Part 3A, *State Environmental Planning Policy (Major Development) Amendment 2011* (**SEPP**) was published. The SEPP amends *State Environmental Planning Policy (Major Development) 2005* (**Major Development SEPP**) by:

- removing certain categories of development that are no longer to be declared as major projects and no longer assessed under Part 3A of the EP&A Act; and
- providing transitional arrangements for the assessment of existing declared Part 3A projects in those categories.

### Categories that have been removed

The following categories of development are longer classified as Part 3A projects under the Major Development SEPP:

- residential, commercial and retail projects with a capital investment value greater than \$100 million; and
- coastal subdivision projects.

New applications for these types of development will need to be lodged with the relevant local Council and assessed by a Joint Regional Planning Panel (**JRPP**) under Part 4 of the EP&A Act.

### Transitional arrangements

All existing project applications and concept plan applications for these categories of development for which Director General's environmental assessment requirements (**DGRs**) have been issued on or before 8 April 2011 will continue to be assessed under Part 3A.

However, applications where DGR's were issued more than two years before 8 April 2011, and the proponent had not lodged an environmental assessment with the Department of Planning by 8 April 2011, will no longer be assessed under Part 3A and will have their declarations as Part 3A projects revoked.

Development applications in these categories awaiting declaration as Part 3A projects will not be declared as Part 3A projects. Declarations for projects for which DGR's were not issued on or before 8 April 2011 are revoked.

Development applications under Part 4 of the EP&A Act which relate to a site that already has an approved concept plan under Part 3A must be assessed by the local council consistently with the approved concept plan, notwithstanding any prohibition and non-compliance with any development standards that would otherwise apply in any relevant planning instrument.

## Other classes of Part 3A projects

The NSW Government has announced that it will not accept any new development applications for Part 3A projects pending the repeal of Part 3A. Applications for other classes of major development awaiting declaration as Part 3A projects will not be declared.

New projects that require urgent assessment may, in the interim, be authorised by the Director General for lodgement with the local council for assessment under Part 4 by the JRPP.

## Future Developments

We will keep you updated on further developments regarding the repeal of Part 3A.

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