

Environment & Planning Alert

Draft State and Regional Development SEPP released

August 2011

Outline

On 18 August 2011, the NSW Government released for comment a draft *State Environmental Planning Policy (State and Regional Development) 2011 (SEPP)* to give effect to the Government's previously released policy statements once Part 3A is repealed. The public is invited to make submissions in relation to the draft SEPP by **2 September 2011**.

Background

On 22 June 2011, the NSW Government introduced a Bill to repeal Part 3A of the *Environmental Planning & Assessment Act 1979 (EP&A Act)*. The Bill created a new system for the assessment of State Significant Development (**SSD**) and State Significant Infrastructure (**SSI**).

The NSW Government also released a number of policy statements setting out the types of development proposed to be considered of State and regional significance once the Bill was passed. Click [here](#) to view our June 2011 Alert for more information.

Summary of the draft SEPP

The draft SEPP:

- Identifies classes of development and development on specified sites as SSD to be assessed under Part 4 of the EP&A Act;
- Identifies SSI;

- Identifies critical SSI;
- Identifies classes of regional development to be determined by Joint Regional Planning Panels (**JRPPs**) by reference to the Part 3A Repeal Act;
- Makes provisions for SSD, SSI and JRPPs;
- Amends the *State Environmental Planning Policy (Major Development) 2005 (Major Development SEPP)* to:
 - Remove provisions related to Part 3A and JRPPs;
 - Remove Schedules 1 and 2 of the Major Development SEPP, which identified classes of major projects; and
 - Make other consequential amendments arising from the repeal of Part 3A;
- Amends the *State Environmental Planning Policy (Western Sydney Parklands) 2009* to remove provisions which allowed nominated classes of development to be made subject to Part 3A;
- Makes necessary amendments to the *State Environmental Planning Policy (Infrastructure) 2007* to facilitate the introduction of SSD and SSI assessment processes; and
- Makes further consequential amendments to other environmental planning instruments as a result of the repeal of Part 3A and the establishment of the SSD and SSI assessment processes.

State Significant Development

SSD is identified in Schedules 1 and 2 of the draft SEPP.

Schedule 1 specifies 24 categories of development as SSD: including intensive livestock agriculture, aquaculture, timber milling and processing, certain mining and petroleum activities, extractive industries, certain manufacturing industries, warehouse and distribution centres, hospitals, educational establishments, port, road and rail facilities and waste management facilities.

Generally, the categories of development identified as SSD are the same as the categories of development identified as Part 3A projects in the Major Development SEPP. However, there are a number of differences including:

- The thresholds for the size or capital investment value of the development have changed;
- Commercial, residential and retail projects, marina facilities and coastal subdivisions are not SSD; and
- The scope of some categories of development is narrower.

Schedule 2 specifies certain types of development as SSD on 11 identified sites, including: the Sydney Opera House, Randwick Racecourse, The Rocks, Barangaroo, Darling Harbour and Sydney Olympic Park.

SSD will be assessed under the new Division 4.1 of Part 4 of the EP&A Act, under which the Minister is the consent authority. Development Control Plans will not apply to SSD.

State Significant Infrastructure

Development is declared to be SSI if it is specified in Schedule 3 or 4 of the SEPP. Schedule 3 includes works carried out by public authorities, pipelines for which a licence is required under the *Pipelines Act 1967*, submarine telecommunication cables and certain development in reserved land under the *National Parks and Wildlife Act 1974*. Schedule 4 is currently blank but is proposed to include specified development on specified land declared by a SEPP or Ministerial Order as SSI. SSI will be assessed and determined by the Minister under a new Part 5.1 of the EP&A Act.

Critical State Significant Infrastructure

Schedule 5 to the draft SEPP identifies Pacific Highway projects, M5 West widening and rail infrastructure projects as critical SSI. Critical SSI may be carried out without development consent under Part 4 of the EP&A Act.

Regional Development

The draft SEPP gives JRPPs specific functions in relation to development listed in the new Schedule 4A to the EP&A Act, including:

- Development with a capital investment value over \$20 million;
- Council and Crown development over \$5 million;
- Private infrastructure and community facilities over \$5 million;
- Eco-tourism facilities over \$5 million; and
- Coastal subdivisions.

A JRPP may exercise the following functions:

- The determination of development applications, and applications for the modification of development consents previously granted by the JRPP, in accordance with Part 4 of the EP&A Act;
- The functions of councils under various sections of the EP&A Act including applications for designated development and staged development.

More information

For more information about the changes to the assessment of state significant development and infrastructure and the repeal of Part 3A of the EP&A Act, click on the following links to view our [May](#) and [June](#) 2011 Alerts.

We will keep you update on further developments.

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