



PLANNING SYSTEM

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Related	PS 09–016

Changes to Crown development provisions under the EP&A Act

The purpose of this circular is to outline provisions of the *Environmental Planning and Assessment Amendment Act 2008* relating to Crown development that commence on 1 July 2009.

Introduction

The *Environmental Planning and Assessment Amendment Act 2008* was assented to on 25 June 2008 (Amendment Act).

Crown development provisions of the Amendment Act and related changes to the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) commence on 1 July 2009.

Changes to Crown development under the EP&A Act and Regulation

The Crown development changes to the *Environmental Planning and Assessment Act 1979* (EP&A Act) replace the existing Crown development provisions contained in Part 5A of the EP&A Act.

The new provisions are now set out in Division 4 of Part 4 of the EP&A Act and only apply to Crown development applications (DAs) made after 1 July 2009.

Changes to the EP&A Act and EP&A Regulation related to Crown development include the following:

- a consent authority (other than the Minister) must not refuse a Crown DA except with the approval of the Minister, or impose a condition on consent except with the approval of the Minister or the applicant (note: this is consistent with the pre-1 July 2009 Crown development provisions of the Act)
- if a consent authority fails to determine a Crown DA within 70 days, the applicant or the consent authority may refer the application to:
 - the Minister—if the consent authority is not a council, or
 - the applicable joint regional planning panel (JRPP)—if the consent authority is a council

- where a Crown DA is referred to a JRPP and the JRPP fails to determine it within 50 days, the applicant or the JRPP may refer the DA to the Minister
- the Minister may issue directions to the consent authority with respect to the determination of Crown DAs referred to the Minister, and require a consent authority to comply with such directions (note: this is also consistent with the pre-1 July 2009 Crown development provisions of the Act).

Note: This circular should be read in conjunction with circular PS 09–016 on the establishment of JRPPs. JRPPs will determine Crown DAs lodged after 1 July 2009 for development with a capital investment value over \$5 million).

Further information

The Amendment Act and the EP&A Regulation are available on the NSW legislation website at www.legislation.nsw.gov.au.

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

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