

PLANNING SYSTEM

Transitional arrangements - Part 3A repeal

Circular	PS 12-001
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Related	PS 11-014; PS 11-019; PS 11-021

Further amendments to transitional arrangements – Part 3A repeal

The purpose of this circular is to advise councils, state agencies and the public of further amendments to the savings and transitional arrangements for the repeal of Part 3A.

Introduction

Part 3A of the *Environmental Planning and Assessment Act 1979* (Act) was repealed on 1 October 2011. Despite this, Part 3A continues to apply to certain projects and concept plans subject to the savings and transitional provisions identified in Schedule 6A to the Act.

On 1 December 2011, the *Environmental Planning and Assessment Further Amendment (Part 3A Repeal) Regulation 2011* (Amending Regulation) commenced.

The main purpose of the Amending Regulation is to clarify the ongoing status of concept plans approved under Part 3A of the Act and to confirm concept plans can be modified.

Transitional arrangements for concept plans

Ongoing operation of concept plans

Under Part 3A of the Act, prior to its repeal, approval could be sought for a concept plan for a project.

Concept plans establish overall concept proposals for development on a site, particularly in circumstances where the development is likely to be carried out in stages.

The Amending Regulation:

- clarifies the circumstances in which an approved concept plan applies to development which is no longer subject to Part 3A of the Act
- ensures any previous determination requiring future stages of a project to be subject to Part 4 or Part 5 are given full effect
- clarifies that further environmental assessment requirements that may have been identified when a concept plan was approved do not constitute

environmental assessment requirements for the purposes of a project remaining subject to Part 3A of the Act.

Amending concept plans

The Amending Regulation clarifies that an approved concept plan can be modified irrespective of whether the relevant project remains subject to Part 3A by operation of Schedule 6A of the Act.

This ensures concept plans that apply to development now subject to assessment under Part 4 can be modified.

Lapsing of concept plan approvals

Schedule 6A provides for the lapsing of project approvals.

The Amending Regulation extends these lapsing provisions to also apply to concept plan approvals. As a result, a concept plan approval lapses five years after the repeal of Part 3A unless:

- any part of the project is physically commenced before that date in accordance with a development consent or approval, or
- the concept plan is subject to a condition that provides for the approval to lapse on an earlier or later date.

Further information

The following instruments should be referred to for details in relation to the saving provisions applying to the repeal of Part 3A:

- *Environmental Planning and Assessment Amendment (Part 3A Repeal) Act 2011*, and
- *Environmental Planning and Assessment Amendment (Part 3A Repeal) Regulation 2011*.

The documents can be found on the NSW Legislation website at: <http://www.legislation.nsw.gov.au>

Department circulars are available from:
<http://www.planning.nsw.gov.au/circulars>

For further information, please contact the
Department of Planning's Information Centre on
1300 305 695.

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