



New South Wales

Environmental Planning and Assessment Amendment (Miscellaneous) Regulation 2005

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Environmental Planning and Assessment Act 1979*.

FRANK SARTOR, M.P.,
Minister for Planning

Explanatory note

The objects of this Regulation are as follows:

- (a) to continue the operation of section 74 of the *Mining Act 1992* (Mining unaffected by *Environmental Planning and Assessment Act 1979*) despite its repeal by Schedule 7.11 to the *Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Act 2005*, but only in relation to an existing mining lease and only for a limited transitional period or until such time as an approval under Part 3A of the *Environmental Planning and Assessment Act 1979* (the **EP&A Act**) is given to carry out mining operations in the mining area to which the existing mining lease applies,
- (b) to provide that clause 28 of Schedule 1 to the *Mining Act 1992* (which prevents a person from objecting to the granting of a mining lease under that Act if the person is entitled under the EP&A Act to make submissions in relation to the granting of development consent for mining purposes) is also taken to apply to persons who are entitled to make submissions under section 75H of the EP&A Act in relation to the approval of Part 3A projects,
- (c) to provide that a council is to specify, in a planning certificate under section 149 of the EP&A Act, if the land concerned is land to which a property vegetation plan under the *Native Vegetation Act 2003* applies, but only if the council has been notified of the existence of the plan by the person or body that approved the plan under that Act,
- (d) to extend (until 30 June 2006) existing transitional arrangements in relation to the environmental assessment of certain fishing activities,

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Explanatory note

(e) to enable RailCorp and the Transport Infrastructure Development Corporation to issue subdivision certificates for the purposes of Part 4A of the EP&A Act (Certification of development),

(f) to correct a reference to the name of an Act in relation to the Sydney Opera House.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 109D (1) (d) (iii), 110 (1) (k), 115R (2) (b), 149 (2) and 157 (the general regulation-making power) and Part 1 of Schedule 6 (savings and transitional regulations).

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1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Miscellaneous) Regulation 2005*.

2 Commencement

This Regulation commences on 16 December 2005.

3 Amendment of Environmental Planning and Assessment Regulation 2000

The *Environmental Planning and Assessment Regulation 2000* is amended as set out in Schedule 1.

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Schedule 1 Amendments

Schedule 1 Amendments

(Clause 3)

[1] Clauses 8K and 8L

Insert after clause 8J:

8K Transitional provision—existing mining leases

- (1) Despite its repeal by Schedule 7.11 to the Amending Act, section 74 of the *Mining Act 1992* (Mining unaffected by *Environmental Planning and Assessment Act 1979*) continues to have effect in respect of an existing mining lease until:

- (a) the end of the relevant transition period, or
- (b) such time as an approval is given to carry out mining operations in the mining area,

whichever is the sooner.

- (2) However, if any such approval is limited to the carrying out of mining operations in a part of the mining area only, section 74 of the *Mining Act 1992* continues to have effect in respect of so much of the existing mining lease as relates to the other parts of the mining area, but only until the end of the relevant transition period or until such time as an approval is given to carry out mining operations in those other parts (whichever is the sooner).

- (3) In this clause:

Amending Act means the *Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Act 2005*.

approval means an approval under Part 3A of the Act, but does not include the approval of a concept plan under that Part.

existing mining lease means a mining lease in force immediately before the relevant commencement.

mining area, mining lease and **mining operations** have the same meanings as in the *Mining Act 1992*.

relevant commencement means the date on which Schedule 7.11 to the Amending Act commences.

relevant transition period means:

- (a) in the case of an existing mining lease in respect of which mining operations are carried out underground—the period ending on the fifth anniversary of the relevant commencement, or

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- (b) in the case of any other existing mining lease—the period ending on the second anniversary of the relevant commencement.

8L Transitional provision—objections under Mining Act in relation to Part 3A projects

- (1) The reference in clause 28 (b) of Schedule 1 to the *Mining Act 1992* to any person who is entitled to make submissions in relation to the granting of development consent to use land for the purpose of obtaining minerals or for one or more mining purposes (*the relevant development*) is taken to include:
- (a) if the relevant development is development to which Part 3A of the Act applies—a reference to any person who is entitled, under section 75H of the Act, to make a written submission in relation to the approval of that project, or
 - (b) if the Director-General has, under clause 8J (3) of this Regulation, accepted a period of public exhibition of an environmental impact assessment with respect to the relevant development before it becomes a project to which Part 3A of the Act applies—a reference to any person who was entitled to make a written submission during the public exhibition period in relation to the relevant development.
- (2) Pursuant to Part 1 of Schedule 6 to the Act, this clause is taken to have commenced on the commencement of Part 3A of the Act.

[2] Clause 160A Prescribed persons: subdivision certificates

Insert after clause 160A (c):

- (d) Rail Corporation New South Wales,
- (e) Transport Infrastructure Development Corporation.

[3] Clauses 244B (1) and 244C

Omit “31 December 2005” wherever occurring. Insert instead “30 June 2006”.

[4] Clause 288 Special provision relating to Sydney Opera House

Omit “*Sydney Opera House Act 1960*” from the definition of *Management Plan for the Sydney Opera House* in clause 288 (3).

Insert instead “*Sydney Opera House Trust Act 1961*”.

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Schedule 1 Amendments

[5] Schedule 4 Planning certificates

Insert after clause 11:

12 Property vegetation plans

If the land is land to which a property vegetation plan under the *Native Vegetation Act 2003* applies, a statement to that effect (but only if the council has been notified of the existence of the plan by the person or body that approved the plan under that Act).

BY AUTHORITY
