



New South Wales

# Environmental Planning and Assessment Amendment (Existing Uses) Regulation 2007

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

This Regulation makes further amendments consequential to the amendments made by the *Environmental Planning and Assessment Amendment (Existing Uses) Regulation 2006 (the 2006 amending Regulation)*.

The objects of this Regulation are:

- (a) to enable an existing use, as defined by section 106 of the *Environmental Planning and Assessment Act 1979 (the Act)*, to be changed:
  - (i) if it is a commercial use—to another commercial use (including a commercial use that would otherwise be prohibited under the Act), or
  - (ii) if it is a light industrial use—to another light industrial use or a commercial use (including a light industrial use or commercial use that would otherwise be prohibited under the Act), and
- (b) to modify the savings and transitional arrangements relating to the amendments made by the 2006 amending Regulation.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including sections 108 and 157 (the general regulation-making power).

**2007 No 48**

Clause 1

Environmental Planning and Assessment Amendment (Existing Uses)  
Regulation 2007

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**Environmental Planning and Assessment Amendment  
(Existing Uses) Regulation 2007**

under the

Environmental Planning and Assessment Act 1979

**1 Name of Regulation**

This Regulation is the *Environmental Planning and Assessment Amendment (Existing Uses) Regulation 2007*.

**2 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

(Clause 2)

### [1] Clause 41 Certain development allowed

Insert at the end of clause 41 (1) (d):

, or

- (e) if it is a commercial use—be changed to another commercial use (including a commercial use that would otherwise be prohibited under the Act), or
- (f) if it is a light industrial use—be changed to another light industrial use or a commercial use (including a light industrial use or commercial use that would otherwise be prohibited under the Act).

### [2] Clause 41 (2) and (3)

Insert after clause 41 (1):

- (2) However, an existing use must not be changed under subclause (1) (e) or (f) unless that change:
  - (a) involves only alterations or additions that are minor in nature, and
  - (b) does not involve an increase of more than 10% in the floor space of the premises associated with the existing use, and
  - (c) does not involve the rebuilding of the premises associated with the existing use, and
  - (d) does not involve a significant intensification of that existing use, and
  - (e) relates only to premises that have a floor space of less than 1,000 square metres.
- (3) In this clause:
  - commercial use** means the use of a building, work or land for the purpose of office premises, business premises or retail premises (as those terms are defined in the *Standard Instrument (Local Environmental Plans) Order 2006*).
  - light industrial use** means the use of a building, work or land for the purpose of light industry (within the meaning of the *Standard Instrument (Local Environmental Plans) Order 2006*).

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Environmental Planning and Assessment Amendment (Existing Uses)  
Regulation 2007

Schedule 1 Amendments

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**[3] Clause 286D Savings and transitional provisions: existing uses**

Omit clause 286D (2) (a). Insert instead:

- (a) application for development consent in respect of an existing use:
  - (i) made before the commencement of the amending Regulation, or
  - (ii) made on or after the commencement of the amending Regulation that relates to:
    - (A) the use of a building, work or land if that application arises from, or is consequential to, a development consent for subdivision that was granted before the commencement of the amending Regulation (or after that commencement by virtue of the operation of this clause), or
    - (B) the internal fitout, landscaping or other related development of a building, work or land if that application arises from, or is consequential to, a development consent relating to the building, work or land that was granted before the commencement of the amending Regulation (or after that commencement by virtue of the operation of this clause), or

BY AUTHORITY

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