



New South Wales

Environmental Planning and Assessment Amendment (Transitional Arrangements) Regulation 2010

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*.

TONY KELLY, MLC
Minister for Planning

Explanatory note

The object of this Regulation is to amend the *Environmental Planning and Assessment Regulation 2000* as follows:

- (a) to confirm that the former plan-making provisions of Part 3 of the *Environmental Planning and Assessment Act 1979* (repealed on 1 July 2009) continue to apply to draft local environmental plans if the Director-General was informed of an intention to prepare the plans (under section 54 of that Act as so repealed) before 1 July 2009,
- (b) to enable local environmental plans to which the former plan-making provisions apply as a result of the proposed regulation to proceed under the former plan-making provisions relying on things previously purported to have been done or omitted in accordance with the former provisions. That provision will not apply to the proposed local environmental plan for South Tralee that was subject to proceedings in *Capital Airport Group Pty Ltd v Director-General of the Department of Planning* [2010] NSWLEC 5,
- (c) to make it clear that amending local environmental plans to which the former plan-making provisions apply include plans containing repeals.

This Regulation is made under the *Environmental Planning and Assessment Act 1979*, including section 157 (the general regulation-making power) and clause 1 of Schedule 6.

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Environmental Planning and Assessment Amendment (Transitional Arrangements) Regulation 2010

under the

Environmental Planning and Assessment Act 1979

1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Transitional Arrangements) Regulation 2010*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Environmental Planning and Assessment Regulation 2000

[1] Clause 12 Continuation of former provisions for making LEPs

Insert “or repeals of” after “amendments to” in the definition of *amending LEP* in clause 12 (1), wherever occurring.

[2] Clause 12 (1)

Omit the definition of *pending LEP*. Insert instead:

pending LEP means:

- (a) a draft principal LEP, if the Director-General was informed of the decision to prepare the plan under section 54 of the Act before 1 July 2009, or
- (b) a draft amending LEP, if the Director-General was informed of the decision to prepare the plan under section 54 of the Act before 1 July 2009, but only until 1 July 2010 (or if the Director-General had not issued a certificate under section 65 for public exhibition of the draft before 1 July 2009, until 1 January 2011).

[3] Clause 12A

Insert after clause 12:

12A Operation of 2010 amending Regulation

- (1) This clause applies to any pending LEP to which the former LEP plan-making provisions continue to apply because of clause 12, as amended by the *Environmental Planning and Assessment Amendment (Transitional Arrangements) Regulation 2010*, but to which those provisions did not apply before the commencement of that Regulation.
- (2) For the purposes of the application of the former LEP plan-making provisions to a pending LEP to which this clause applies, any thing purporting to have been done or omitted before the commencement of that Regulation in accordance with the former LEP plan-making provisions in respect of the pending LEP is taken to have been done or omitted under and in accordance with the former LEP plan-making provisions.
- (3) The amendments to clause 12 made by the *Environmental Planning and Assessment Amendment (Transitional Arrangements) Regulation 2010* apply, but this clause does not

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Schedule 1

Amendment of Environmental Planning and Assessment Regulation 2000

apply, to the proposed local environmental plan relating to South Tralee submitted to the Director-General on or about 6 November 2009 by the Queanbeyan City Council.