

PLANNING SYSTEM

Planning Frameworks

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Related	N/A

Simplifying and improving the planning system – SEPP review Stage 1

This circular is to advise councils and practitioners of changes introduced by *State Environmental Planning Policy (Integration and Repeals) 2016* and accompanying amendments to the *Standard Instrument (Local Environmental Plans) Order 2006* (Standard Instrument Order) and the *Environmental Planning & Assessment Regulation 2000* (Regulation).

Overview of the amendments

The following amendments were published on the NSW legislation website on 10 June 2016 with a commencement date of 5 August 2016:

- *State Environmental Planning Policy (Integration and Repeals) 2016* (SEPP Amendment);
- *Standard Instrument (Local Environmental Plans) Amendment (Observatory and Defence Facility) Order 2016* (Standard Instrument Order Amendment) and
- *Environmental Planning and Assessment Amendment (Siding Spring Observatory) Regulation 2016* (Regulation Amendment)

State Environmental Planning Policy (Integration and Repeals) 2016

The SEPP repeals 16 SEPPs and transfers certain provisions from these SEPPs to other environmental planning instruments and the Standard Instrument Order.

The SEPP repeals the following 16 SEPPs:

- *Hunter Regional Environmental Plan 1989 (Heritage)*
- *Illawarra Regional Environmental Plan No 1*
- *Illawarra Regional Environmental Plan No 2 – Jamberoo Valley*
- *Jervis Bay Regional Environmental Plan 1996*
- *Lower South Coast Regional Environmental Plan (No 2)*
- *North Coast Regional Environmental Plan*
- *Orana Regional Environmental Plan No 1 – Siding Spring*
- *Riverina Regional Environmental Plan No 1*
- *State Environmental Planning Policy (SEPP 53 Transitional Provisions) 2011*

- *State Environmental Planning Policy No 15 – Rural Landsharing Communities*
- *State Environmental Planning Policy No 29 – Western Sydney Recreation Area*
- *State Environmental Planning Policy No 32 – Urban Consolidation (Redevelopment of Urban Land)*
- *State Environmental Planning Policy No 39 – Spit Island Bird Habitat*
- *State Environmental Planning Policy No 59 – Central Western Sydney Regional Open Space and Residential*
- *Sydney Regional Environmental Plan No 18 – Public Transport Corridors*
- *Sydney Regional Environmental Plan No 19 – Rouse Hill Development Area*

The key amendments to other planning instruments include:

- Transferring provisions from the *Illawarra Regional Environmental Plan No 1* and *Jervis Bay Regional Environmental Plan 1996* to the *Shoalhaven Local Environmental Plan 1985*, which has the effect of retaining the controls for certain land at Culburra, Callala Bay, and Lake Wollumboola.
- Introducing an E1 National Parks and Nature Reserves zone into the *Rockdale Local Environmental Plan 2011* to continue to protect the bird habitat at Spit Island.
- Transferring four heritage items from the *Hunter Regional Environmental Plan 1989 (Heritage)* to *Muswellbrook Local Environmental Plan 2009*.
- Transferring one heritage item from the *Hunter Regional Environmental Plan 1989 (Heritage)* to *Cessnock Local Environmental Plan 2011*.

- Amending the *State Environmental Planning Policy (Exempt and Comply Development Codes) 2008* (Codes SEPP) to:
 - introduce a development standard for outside lighting for dwelling houses within Coonamble, Dubbo, Gilgandra and Warrumbungle local government areas (LGAs);
 - permit certain unlit exempt development within 18 kilometres of the Siding Spring Observatory;
- Amending the *State Environmental Planning Policy (Infrastructure) 2007* to:
 - require consultation with the Secretary of the Commonwealth Department of Defence for proposed development on defence communications facility buffer land near Morundah; and
 - require consultation with the Siding Spring Observatory Director for proposed development within 200 kilometres of the Siding Spring Observatory;
- Consequential amendments to other environmental planning instruments to remove references to the repealed 16 SEPPs.
- Retaining a rural landsharing communities provision in the SEPP (Schedule 1) for a number of LEPs where communities had been approved under the *State Environmental Planning Policy No 15 – Rural Landsharing Communities*. Schedule 1 of the new SEPP will be repealed two years after commencement. This two year period will give councils time to include a local provision for rural landsharing communities in their LEPs or, where this has not occurred, for the clause to be transferred to another planning instrument.

Standard Instrument (Local Environmental Plans) Amendment (Observatory and Defence Facility) Order 2016

The key amendments to the Standard Instrument Order include:

- Inserting a new optional clause 4A to the Standard Instrument Order which enables the provision to be compulsory in the relevant LEPs.
- Transferring updated provisions from the *Orana Regional Environmental Plan No 1 Siding Spring* and *Riverina Regional Environmental Plan No 1* to introduce a new optional clause 5.14 *Siding Spring Observatory – maintaining the dark sky* and clause 5.15 *Defence communications facility* into the relevant LEPs.

Clause 5.14 ensures the ongoing protection of the observing conditions for the Siding Spring Observatory. The relevant LEPs for land within the Coonamble, Dubbo, Gilgandra and Warrumbungle LGAs include a statement that this is a compulsory provision for the purposes of clause 4A of the Standard Instrument Order.

Clause 5.15 ensures the ongoing preservation of the Defence communication facility near Morundah. The

relevant LEPs for land within Lockhart, Narrandera and Urana LGAs include a statement that this is a compulsory provision for the purposes of clause 4A of the Standard Instrument Order.

Environmental Planning and Assessment Amendment (Siding Spring Observatory) Regulation 2016

The key amendments to the Regulation include:

- Providing that a certifying authority not issue an occupation certificate for complying development for a dwelling house, dual occupancy or secondary dwelling on land within the Coonamble, Dubbo, Gilgandra and Warrumbungle LGA unless certain development standards are met with respect to outside lighting.
- Requiring a consent authority to consider the Department's new *Dark Sky Planning Guideline* (Guideline):
 - for development within the Coonamble, Dubbo, Gilgandra and Warrumbungle LGAs; and
 - for regional development, State significant development and designated development within 200 kilometres of the Siding Spring Observatory.
- Requiring proponents for State significant infrastructure within a 200 kilometre radius of the Siding Spring Observatory to consider the Guideline when preparing an environmental impact statement.

Transitional provisions

For development applications or modification applications that were lodged **before** the amendments commenced, being 5 August 2016, the application must be determined as if the amendments had not commenced.

Further Information

A copy of the *State Environmental Planning Policy (Integration and Repeals) 2016*, *Environmental Planning and Assessment Amendment (Siding Spring Observatory) Regulation 2016* and *Standard Instrument (Local Environmental Plans) Amendment (Observatory and Defence Facility) Order 2016* are available at www.legislation.nsw.gov.au

A copy of the *Dark Sky Planning Guideline* is available on the Department of Planning and Environment's website.

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

For further information please contact the Department of Planning and Environment's information centre on 1300 305 695.

Authorised by:

Simon Officer
Acting Secretary

Important note: This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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