PIKES & VEREKERS
LAWYERS

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FURTHER AMENDMENTS TO ENVIRONMENTAL PLANNING AND ASSESSMENT ACT

The second wave of amendments to the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) and the *Environmental Planning and Assessment Regulation* 2021 (**EP&A Regulation**) are set to come into effect on **21 March 2026**.

These amendments are part of the wider changes introduced by the *Environmental Planning and Assessment Amendment (Planning System Reforms) Act 2025* and the *Environmental Planning and Assessment Amendment (Planning System Reforms) Regulation 2026*.

We recently published an article detailing the first wave of amendments to the EP&A Act which commenced late last year on 15 December 2025. These amendments have been applicable to development applications lodged since this date. Further information on these changes are attached to this update.

In our earlier article, we foreshadowed that further amendments to the EP&A Act were going to commence in 2026. Local Councils should be aware and well-informed of the changes that are set to come into effect to ensure their compliance with the new requirements.

As such, we have summarised some of the key changes which commence on 21 March 2026 below.

Introduction of the new 'targeted assessment development' pathway

- A new 'targeted assessment development' pathway will be introduced in an attempt to reduce assessment timeframes for eligible projects. The pathway aims to do this by bridging the gap between a full development assessment and complying development assessment.

- This pathway will allow certain developments to avoid having to undergo a full merit assessment where relevant issues and impacts of the development have already been addressed upfront or through earlier planning processes. For targeted assessment development only environmental planning instruments and public submissions will need to be considered. There is no need to consider the 'significant likely impacts', 'site suitability' and 'public interest'.

- This will be done by inserting sections 4.15(1C) and 4.15(1D) into the EP&A Act to limit the matters for consideration when assessing targeted assessment development and inserting a new division 4.3A Targeted Assessment Development, which lays out the process and limitations for making a targeted assessment development declaration.

- The targeted assessment development pathway will streamline the merit assessment for development or a class of development that is declared in a State Environmental Planning Policy (**SEPP**). Prior to declaring development or a class of development as targeted assessment in the SEPP, the Department proposes to exhibit an explanation of the intended effect for a minimum of 28 days and invite submissions.

- Schedule 1 of the EP&A Act will also be amended to include consultation requirements for development applications that will be assessed under the targeted assessment development pathway.

- There will also be other amendments made to the EP&A Act to ensure that targeted assessment development provisions can be also applied to modification applications.

- It will be interesting to see whether the targeted assessment development regime streamlines the assessment process for local councils. This is because the 'significant likely impacts', 'site suitability' and the 'public interest' are likely to be raised in the provisions of environmental planning instruments and in public submissions, and therefore will require consideration despite the removal of those considerations from s 4.15.

Changes to the modification application pathways

- Modification application pathways will now enable 'fast tracked' assessment and approval of modifications with no environmental impact and modifications that aim to correct a minor error, misdescription or miscalculation. These modification applications will now be assessed under section 4.55(1) instead of section 4.55(1A).

- To fast track the assessment of these applications, a consent authority will now need to determine these 'minor modification applications' that are made under

section 4.55(1) within 14 days of lodgement. This 14-day period is specified within the new section 118A of the EP&A Regulation.

- In practice, this will mean that Councils will need to determine modification applications of this kind within 14 days otherwise, the modification application cannot be refused, only approved with conditions.

- Whether a modification application has 'no environmental impact' and therefore has the benefit of the new fast-tracked pathway is a matter open to debate. A proponent seeking to benefit from this pathway may assert the modification has no such impact, when further consideration reveals this not to be the case. An example may be internal modifications which might impact the internal amenity of the approved development. If a council receives a modification application relying on section 4.55(1), it should undertake an initial assessment to determine whether the modification truly has 'no environmental impact'.

More options for reviews and appeals

- Changes have also been introduced to provide applicants with more options when seeking a review of a determination of a development or modification application.

- Division 8.2 of the EP&A Act will now allow applicants 6 months to lodge a review and allow applicants to elect to have their review determined by a local planning panel (**LPP**) if the original determination was made by a council officer. Note that this option will only be available where an LPP is constituted.

- In addition to expanding an applicant's review rights, the eligibility to appeal a deemed refusal of a development or modification application has been expanded to give the applicant a right to appeal against a deemed refusal up until determination.

- However, an applicant will not be able to lodge an appeal under division 8.3 whilst a division 8.2 review is underway. Instead, the 6-month appeal clock will be paused whilst the review is being conducted. This allows for an appeal to still be lodged once the review has concluded instead of the former process in which an appeal may have had to be filed while the outcome of the review remained pending.

- The above changes will likely reduce the number of 'deemed refusal appeals' being lodged with the Court, as Applicants will no longer need to lodge the appeal within the 6 month appeal period following the 'deemed refusal' of the development application to preserve their appeal rights. This will enable councils and proponents to work through concerns relating to a pending DA without the added burden and cost associated with merits proceedings in the Court.

- The ability to seek a review from the LPP (where constituted) will place an increased resource burden on LPPs. LPPs have already taken responsibility for determining regionally significant development applications (as explained in our

previous article). It will be interesting to see what measures, if any, are introduced to assist LPPs and councils manage this increased workload.

Environmental impact assessments

- When assessing activities under Part 5 of the EP&A Act (activity approvals), consent authorities are no longer required to consider all matters affecting or likely to affect the environment "to the fullest extent possible". Instead, consent authorities can consider these matters in a manner that is proportionate to the nature and the risk of the proposed activity.

- Further amendments to section 192 of the EP&A Regulation will also commence, relating to the content of an environmental impact statement (**EIS**). Changes to the content of an EIS will include omitting the need to provide an analysis of feasible alternatives to the proposed development, and now requiring an analysis of the significant likely impacts of the development on the environment and requiring a description of proposed mitigation measures.

- This change aims to significantly reduce the amount of time spent preparing and reviewing unnecessary environmental impact assessments, by providing a targeted and efficient review of the development.

- The amendments relating to the assessment of activity approvals are a 'relaxation' of the standard of environmental review that previously applied.

- Activity approvals issued by councils are often the subject of judicial review challenge on the ground that the environmental impacts of the activity have not been properly considered. These changes may make the successful challenge of such approvals on that ground more difficult.

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