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SPECIAL SUPPLEMENT



New South Wales

Environmental Planning and Assessment Amendment (Existing Uses) Regulation 2006

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

- (a) to enable an existing use, as defined by section 106 of the *Environmental Planning and Assessment Act 1979*, to be changed only to a use that may be carried out with or without development consent under the Act and not also to a prohibited use, and
- (b) to remove a provision that takes a use to which an existing use is changed to be itself an existing use for the purposes of the Act.

The amendments apply to an existing use regardless of whether the use was existing before the commencement of the amendments or not. However, they do not affect applications for development consent in respect of an existing use that have been made before that commencement.

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

Clause 1 Environmental Planning and Assessment Amendment (Existing Uses)
 Regulation 2006

Environmental Planning and Assessment Amendment (Existing Uses) Regulation 2006

under the

Environmental Planning and Assessment Act 1979

1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Existing Uses) Regulation 2006*.

2 Amendment of Environmental Planning and Assessment Regulation 2000

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

Environmental Planning and Assessment Amendment (Existing Uses)
Regulation 2006

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Clause 39 Definitions

Omit the definition of *changed existing use*.

[2] Clause 41 Certain development allowed

Omit “including a use that would otherwise be prohibited” from clause 41 (1).

Insert instead “but only if that other use is a use that may be carried out with or without development consent”.

[3] Clause 41 (2)

Omit the subclause.

[4] Clauses 42, 43 and 44

Omit “, or for a changed existing use, but” wherever occurring.

Insert instead “and”.

[5] Clause 286D

Insert after clause 286C:

286D Savings and transitional provisions: existing uses

- (1) Subject to subclause (2), the amendments to this Regulation made by the amending Regulation extend to and in respect of an existing use that was an existing use before the commencement of the amending Regulation (including a use that was taken to be an existing use for the purposes of the Act).

Note. Before the commencement of the *Environmental Planning and Assessment Amendment (Existing Uses) Regulation 2006* clause 41 of this Regulation enabled an existing use to be changed to, among other uses, a use that would otherwise be prohibited under the Act and provided that a use to which an existing use was changed was itself taken to be an existing use.

- (2) The amendments to this Regulation made by the amending Regulation do not affect any:
- (a) application for development consent in respect of an existing use made before the commencement of the amending Regulation, or
 - (b) a development consent or complying development certificate arising from an application referred to in paragraph (a), or

Environmental Planning and Assessment Amendment (Existing Uses)
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Schedule 1 Amendments

- (c) an application for a construction certificate or occupation certificate that is made in relation to a development carried out under the authority of a development consent or complying development certificate arising from an application referred to in paragraph (a).
- (3) In this clause, **amending Regulation** means the *Environmental Planning and Assessment Amendment (Existing Uses) Regulation 2006*.