

Circular Details	Circular No 17-38 / 24 November 2017 / A572139
Previous Circular	N/A
Who should read this	General Managers / Planning and Assessment Staff
Contact	Development Team - 02 4428 4183
Action required	Information

Update on implementation of the Biodiversity Conservation Act 2016

What's new or changing

- New applications for development consent or modifications to an approved development under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) (not including State Significant Development) will continue to be assessed under former planning provisions until 25 February 2018 in most local government areas.
- In the seven local government areas identified as Interim Designated Areas – Camden, City of Campbelltown, City of Fairfield, City of Hawkesbury, City of Liverpool, City of Penrith and Wollondilly – new applications for development consent, or modifications to an approved development, under Part 4 of the EP&A Act will continue to be assessed under the former planning provisions until 25 August 2018.
- The Minister for the Environment will have until 25 February 2018 to declare additional Interim Designated Areas.
- In response to concerns around the status of some existing biodiversity impact arrangements, an amendment to the *Biodiversity Conservation (Savings and Transitional) Regulation 2017 Regulation* (BC Regulation) is proposed to confirm the intended policy that biodiversity impacts are only offset once. OEHL will keep stakeholders informed of the timing of this amendment.
- Transitional arrangements will continue to apply to activities under Part 5 of the EP&A Act, major projects and mining projects as outlined in the BC Regulation.
- The Native Vegetation Panel is in the process of being established. Local Land Services offices are located in many regional areas and will accept applications for clearing of native vegetation under Division 6 of Part 5A of the *Local Land Services Act 2013* and Part 4 of the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*.

What this will mean for your council

Former planning provisions continue to apply

- To support transition to the *Biodiversity Conservation Act 2016* (the BC Act), the Minister for the Environment has agreed to the making of an amendment to the BC Regulation which will extend to 6 months the period for which former planning provisions apply to local developments across the State.
- New development applications or modifications to an approved development under Part 4 of the EP&A Act will continue to be assessed under former planning provisions until 25 February 2018.

- The BC Regulation identifies seven local government areas as Interim Designated Areas. The Minister has agreed to the making of an amendment to the Regulation to extend to 6 months the period within which additional local government areas may be declared as Interim Designated Areas.
- In Interim Designated Areas, development applications or modifications to an approved development under Part 4 of the EP&A Act will continue to be assessed under former planning provisions until 25 August 2018.

Biodiversity impacts should not be offset twice

- Some projects which have assessed biodiversity impacts and committed to biodiversity offsets are not currently captured by the BC Regulation.
- A regulation amendment is proposed which will seek to recognise existing conservation commitments, for example those associated with a Part 3A concept plan approval that are secured by a Voluntary Planning Agreement.
- The regulation amendment is proposed for early 2018.

Strategy for supporting councils in implementation

- An online resource with information and links specific to Local Government can be accessed at <http://www.environment.nsw.gov.au/biodiversity/localgovernment.htm>. OEH is continuing to build this resource and publish products to assist local government staff to build knowledge of the new biodiversity assessment and approval framework.
- Training sessions targeted at local government approvers will continue to roll out over 2018. For information on upcoming training sessions and to register your interest visit: <https://www.greencap.com.au/training/biodiversity-offsets-scheme-training-nsw>.
- OEH is initially sponsoring three training places for each council. There is no limit to the number of staff that a council may seek to have trained at their own cost. The allocation of sponsored training places will be periodically reviewed. Announcements of additional funded places will be made on the OEH website, at the above link and advertised through program partners and the regional support network.
- OEH has entered partnerships with eight local government organisations to employ regional support officers to assist with the reform transition. Further announcements and introductions will be made as positions are advertised and recruited. The partners and the areas they service are:

Host Organisation	Region
The Hills Shire Council	Metropolitan Sydney North
City of Canterbury Bankstown Council	Metropolitan Sydney South
Hunter Councils	Hunter and Central Coast
Bellingen Shire Council	North Coast
Gwydir Shire Council	New England North West and northern Far West
Cowra Shire Council	Central West and Orana and central Far West
Queanbeyan-Palerang Regional Council	South East and Tablelands and Illawarra Shoalhaven
Riverina East Regional Organisation of Councils	Riverina and Murray and southern Far West

Key points

- Councils understand that former planning provisions continue to apply until 25 February 2018 for local developments.
- Councils access support products and systems in preparation for their role in implementing the BC Act.
- Councils are encouraged to pursue training and connect with the regional support network.

Where to go for further information

- Information about the Councils assessment and approval obligations or the support network for local government can be directed to 02 4428 4183 or Elizabeth.dixon@olg.nsw.gov.au.
- Questions about the Biodiversity offset scheme should be directed to 02 9995 6726 or Kelly.Carbery@environment.nsw.gov.au.
- The following websites also have detailed information for councils:
<http://www.environment.nsw.gov.au/biodiversity/index.htm>
<http://www.landmanagement.nsw.gov.au>



Tim Hurst
Acting Chief Executive