

Blue Mountains Conservation Society Inc.

Planning and Development Resource Kit



Scenario 9: Council or other public authority development

You have heard about or have seen a Council notice in the *Blue Mountains Gazette* or on the Council's website that works e.g. building a sporting field or bike track are going to take place in an environmentally sensitive area on Council land. How can you find out more about it and what can you do about it?

Background information

Public authorities or private sector proponents carrying out public service or infrastructure activities do not need to apply for development consent; that is, they do not need to lodge a Development Application. Chapter 2 of the [State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#) lists a range of infrastructure development types that can be carried out on certain land use zones with or without consent or as 'exempt' development which override any requirements in Local Environmental Plans. For example, development for the purpose of stormwater management systems may be carried out by or on behalf of a public authority on any land without consent.

However, assessment and approval of a determining authority is required under Part 5 of the [Environmental Planning and Assessment Act 1979](#) (EP&A Act), including the assessment of environmental impacts. The determining authority (generally the authority - including Councils - responsible for the activity) must examine and take into account all impacts on the environment, including threatened species and endangered ecological communities. A preliminary assessment, a Review of Environmental Factors (REF), is generally carried out by the authority responsible for the project. For very minor or 'exempt' works, the assessment may take the form of a checklist or similar format depending on the authority. The REF will determine whether a full Environmental Impact Statement (EIS) is required. Activities or development for which a full EIS is generally required are major infrastructure works such as the Great Western Highway upgrade.

All activities assessed under Part 5 of the EP&A Act, not just those requiring an EIS, still require consideration of whether there will be impacts on matters protected by other Acts, such as impacts on State heritage items listed under the [Heritage Act 1977](#), on Aboriginal heritage regulated under the [National Parks and Wildlife Act 1974](#) or on threatened species listed in the [Biodiversity Conservation Act 2016](#). There are also guidelines for development adjacent to National Parks which you can access by clicking [here](#).

Generally, activities and works carried out under Part 5 of the EP&A Act do not have to be publicly notified or exhibited, unless an EIS is required. However, a public authority may advertise the carrying out of works if there is considerable public interest or controversy surrounding the development. Council lists its current community consultations and updates on its 'Have your say' site which you can access by clicking [here](#).

What you can do:

- *If you have seen a notice in the Blue Mountains Gazette or on the Council's website inviting submissions to a REF, follow the directions given on where to find the REF and where to send your submission and by what date. Although a REF is not a Development Application, the information provided on the **How to Make a Submission to a Development Application** page may help you assess the adequacy of the REF in relation to threatened species, for example.*
- *If you haven't seen a public notice about the proposed development, you can still check Council's list of current community consultations on its 'Have your say' site which you can access by clicking [here](#). If you can't find the development proposal on that list, make an enquiry at the Council. Go to the **How to Make an Enquiry at the Blue Mountains City Council** page for information on how to do that.*