

# Planning and Development

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These fact sheets are a guide only and are not substitute for legal advice.

## Overview

This fact sheet was prepared for staff of Local Councils and Local Land Services as part of EDO NSW's 'Environmental Law for Environmental Decision-Makers' project. They complement a series of full day professional development workshops on environmental laws held in 2016. This project was supported by the NSW Government through its Environmental Trust.

For more information about EDO NSW's Professional Programs, please contact [education@edonsw.org.au](mailto:education@edonsw.org.au).

This fact sheet provides information on the following issues:

- Objects of the *Environmental Planning and Assessment Act* (EP&A Act)
- Matters for considerations when determining development applications under 79C of the EP&A Act
- Determining the likelihood of a development or activity having a significant effect on threatened species, populations or ecological communities, or their habitats

## Objects of the EP&A Act

- It's important to keep the objects of the EP&A Act in mind when carrying out any functions under that Act e.g. assessing a DA, preparing a LEP or amendment to a LEP, or enforcing compliance with a development consent. The objects include to encourage:
  - the proper management, development and conservation of natural and artificial resources,
  - the promotion and co-ordination of the orderly and economic use and development of land,
  - the provision of land for public purposes,
  - the protection of the environment, including the protection and conservation of native animals and plants, and
  - ecologically sustainable development: **EP&A Act, s 5.**

## Matters for considerations when determining development applications under 79C of the EP&A Act

- Section 79C of the EP&A Act details the considerations that decision-makers must take into account when determining and application for development. Considerations include:
  - environmental planning instruments (SEPPs and LEPs), both current and those that have been the subject of consultation or notified to the consent authority, that apply to the land,
  - development control plans (DCPs), planning agreements, and coastal zone management plans that apply to the land,
  - the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
  - the suitability of the site for the development,
  - any submissions made in accordance with the Act and Regulation, and
  - the public interest: **EP&A Act, s 79C.**

## Significant effect on threatened species, populations or ecological communities, or their habitats

- In deciding whether a development or activity is likely to have a significant effect on threatened species, populations or ecological communities, or their habitats under ss 78A, 79B, 79C, 111 and 112, there are a number of things that must be taken into account, including:
  - in the case of a threatened species or an endangered population, whether the action proposed is likely to have an adverse effect on the life cycle of the species or species that make up the population, such that a viable local population of the species is likely to be placed at risk of extinction,
  - in the case of in the case of an endangered ecological community or critically endangered ecological community, whether the action proposed is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction: **EP&A Act, s 5A.**