

1991—No. 562

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979  
STATE ENVIRONMENTAL PLANNING POLICY No. 4—  
DEVELOPMENT WITHOUT CONSENT (AMENDMENT No. 5)**

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Environmental Planning and Assessment Act 1979, has been pleased to make the State Environmental Planning Policy set forth hereunder in accordance with the recommendation made by the Minister for Planning. (86-1541(z)1)

ROBERT WEBSTER  
Minister for Planning.

Sydney, 18 October, 1991.

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**Citation**

1. This Policy may be cited as State Environmental Planning Policy No. 4—Development Without Consent (Amendment No. 5).

**Principal Policy**

2. In this Policy, State Environmental Planning Policy No. 4—Development Without Consent is referred to as the Principal Policy.

**Aims, objectives etc.**

3. The aims of this Policy are as follows:

- (a) to provide that clauses 6 (Subdivision), 9 (Alteration of a building or work) and 10 (Certain ancillary or incidental development) of the Principal Policy do not apply to areas or items of heritage significance;

- (b) to enable certain development (the alteration of or addition to, or the extension or demolition of, any building or work) to be carried out without consent on land dedicated or reserved under the National Parks and Wildlife Act 1974 on which that development could not otherwise be carried out except with consent;
- (c) to enable certain development (for the purposes of classified roads or toll works) to be carried out without consent on land on which that development could not otherwise be carried out except with consent;
- (d) to amend Manly Local Environmental Plan 1988 to provide that certain buildings or works in a Foreshore Scenic Protection Area (within the meaning of that instrument) may be altered internally without consent.

**Land to which Policy applies**

4. This Policy applies to the land to which the Principal Policy applies.

**Relationship to other environmental planning instruments**

5. This Policy:
- (a) amends the Principal Policy in the manner set out in clause 6; and
  - (b) amends Manly Local Environmental Plan 1988 in the manner set out in clause 7.

**Amendment of Principal Policy**

6. The Principal Policy is amended:
- (a) by inserting at the end of clause 2 (5) (c) the word “or”;
  - (b) by omitting from clause 2 (5) (d) the words “dwellings; or” and by inserting instead the word “dwellings.”;
  - (c) by omitting clause 2 (5) (e);
  - (d) by inserting after clause 2 (5) the following subclause:
    - (6) Nothing in this Policy, except clause 11A, permits the alteration of or addition to, or the extension or demolition of, a building or work:
      - (a) described in an environmental planning instrument as a heritage item, an item of the environmental heritage or a potential historical archaeological site; or
      - (b) on land described in an environmental planning instrument as comprising or being within a conservation area or a heritage conservation area; or

- (c) on land described in an environmental planning instrument as comprising or being within a foreshore scenic protection area, a harbour foreshore preservation area or a beach front scenic protection area.
- (e) by renumbering clause 4 (4), as inserted by Sydney Regional Environmental Plan No. 16—Walsh Bay, as subclause (5) of that clause:
- (f) by inserting at the end of clause 6 the following subclause:
  - (2) This clause does not apply:
    - (a) to land described in an environmental planning instrument as comprising or being within a conservation area or a heritage conservation area; or
    - (b) to land comprising, or on which is situated, an item described in an environmental planning instrument as a heritage item, an item of the environmental heritage or a potential historical archaeological site.
- (g) by omitting clause 9 (2) and by inserting instead the following subclauses:
  - (2) A building or work that, but for this clause, could not be altered except with development consent being obtained therefor may be altered without that consent.
  - (3) This clause does not apply:
    - (a) to a building or work described in an environmental planning instrument as a heritage item, an item of the environmental heritage or a potential historical archaeological site; or
    - (b) to a building or work on land described in an environmental planning instrument as comprising or being within a conservation area or a heritage conservation area; or
    - (c) to a building or work on land described in an environmental planning instrument as comprising or being within a foreshore scenic protection area, a harbour foreshore preservation area or a beach front scenic protection area.
- (h) by omitting clause 10 (2) and by inserting instead the following subclauses:
  - (2) Development that, but for this clause, could not be carried out except with development consent being obtained therefor may be carried out without that consent.
  - (3) This clause does not apply:

- (a) to development carried out on land, or in relation to a building or work, described in an environmental planning instrument as a heritage item, an item of the environmental heritage or a potential historical archaeological site; or
- (b) to development carried out on land, or in relation to a building or work on land, described in an environmental planning instrument as comprising or being within a conservation area or a heritage conservation area; or
- (c) to development carried out on land, or in relation to a building or work on land, described in an environmental planning instrument as comprising or being within a foreshore scenic protection area, a harbour foreshore preservation area or a beach front scenic protection area; or
- (d) to land, or a building or work on land, a part of which land is used:
  - (i) as a means of entrance to, or exit from, the land; or
  - (ii) for the loading, unloading, manoeuvring or parking of vehicles; or
  - (iii) for landscaping required to be carried out or maintained by reason of a condition imposed under the Act,

if the development would prevent or restrict that use of the part of the land.

- (i) by inserting after clause 11B the following clause:

**Classified roads and toll works**

11C. (1) In this clause:

“**classified road**” means a road within the meaning of the State Roads Act 1986;

“**toll work**” means a work declared to be a toll work under section 46 of the State Roads Act 1986.

(2) Where, in the absence of this clause, development for the purposes of a classified road or toll work, or a proposed classified road or toll work, may be carried out only with development consent being obtained therefor, that development may be carried out without that consent.

**Amendment of Manly L.E.P. 1988**

7. Manly Local Environmental Plan 1988 is amended by inserting after clause 17 the following clause:

**Alteration of a building or work in a Foreshore Scenic Protection Area**

17A. (1) This clause applies to a building or work, other than an item of the environmental heritage, in a Foreshore Scenic Protection Area.

(2) Where, in the absence of this clause, a building or work to which this clause applies may be altered only with development consent being obtained therefor, the building or work may be altered internally without that consent.

(3) In this clause, a reference to the internal alteration of a building or work is a reference to the making of changes to the internal fabric or appearance of the building or work, whether or not involving structural alterations.

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