



New South Wales

State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Complying Development (Amendment No 15)

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979* in accordance with the recommendation made by the Minister for Planning.

ANDREW REFSHAUGE, M.P.,
Minister for Planning

State Environmental Planning Policy No 4— Development Without Consent and Miscellaneous Complying Development (Amendment No 15)

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Complying Development (Amendment No 15)*.

2 Principal Policy

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

3 Aims of Policy

This Policy aims to amend the Principal Policy:

- (a) to provide for certain types of filming to be exempt development if carried out either on certain iconic sites in Sydney or on private land, and in accordance with certain requirements, and
- (b) to provide for the installation of certain types of rainwater tanks to be exempt development, and
- (c) to rename the Principal Policy to reflect the proposed changes to the Principal Policy and to make other minor amendments to the Principal Policy, and
- (d) to provide for the amendments to the Principal Policy, and certain other provisions of the Principal Policy, to apply to land situated in the City of Randwick.

4 Amendment of Principal Policy

The Principal Policy is amended as set out in Schedule 1.

5 Amendment of other environmental planning instruments

The environmental planning instruments specified in Schedule 2 are amended as set out in that Schedule.

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State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Complying Development (Amendment No 15)

Schedule 1

Amendment of State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Complying Development

Schedule 1 Amendment of State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Complying Development

(Clause 4)

[1] Part 1 Heading

Insert before clause 1:

Part 1 Preliminary

[2] Clause 1 Name of Policy

Insert “Exempt and” after “Miscellaneous”.

[3] Clause 2 Definitions

Insert in alphabetical order in clause 2 (1):

filming means recording images (whether on film or video tape or electronically or by other means) for exhibition or broadcast (such as by cinema, television or the Internet or by other means), but does not include:

- (a) still photography, or
- (b) video recording of a wedding ceremony or other private celebration or event principally for the purpose of making a record for the participants in the ceremony, celebration or event, or
- (c) video recording as a visitor or tourist for non-commercial purposes, or
- (d) recording for the immediate purposes of a television program that provides information by way of current affairs or daily news.

iconic site means any of the following land:

- (a) the land described in Schedule 1 to the *Sydney Olympic Park Authority Act 2001*,
- (b) the Trust lands within the meaning of the *Royal Botanic Gardens and Domain Trust Act 1980*,
- (c) the Trust lands within the meaning of the *Centennial Park and Moore Park Trust Act 1983*,

(d) the foreshore area within the meaning of the *Sydney Harbour Foreshore Authority Act 1998*.

offensive noise has the same meaning as in the *Protection of the Environment Operations Act 1997*.

private land means land that is not a public place or an iconic site.

rainwater tank means a tank designed for the storage of rainwater gathered on the land on which the tank is situated.

water supply service pipe means a pipe connecting premises to a water main.

[4] Clause 3 Aims, objectives etc

Insert after clause 3 (2):

- (3) This Policy is also designed to allow, as exempt development throughout the State:
 - (a) filming that complies with the requirements of clauses 14 and 15, and
 - (b) rainwater tanks that comply with the requirements of clauses 14 and 16.

[5] Part 2 Heading

Insert after clause 5:

Part 2 Development without consent

[6] Part 3 Heading

Insert after clause 12:

Part 3 Complying development

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[7] Part 4

Insert after clause 13:

Part 4 Exempt development

14 Exempt development

- (1) This clause identifies the development and the requirements that must be met in respect of it for the development to be carried out without development consent as exempt development.

Note. The *Environmental Planning and Assessment Act 1979* states that exempt development:

- (a) must be of minimal environmental impact, and
 - (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), and
 - (c) cannot be carried out in a wilderness area (identified under the *Wilderness Act 1987*).
- (2) Development specified in clauses 15 and 16 that meets the requirements for the development contained in those clauses and that complies with the requirements of this clause is exempt development for the purposes of this Policy.
- (3) To be exempt development:
- (a) the development must:
 - (i) meet the relevant provisions of the *Building Code of Australia*, and
 - (ii) be more than 1 metre from any easement or public sewer main, and
 - (b) the development must not:
 - (i) if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, or
 - (ii) require a tree to be removed, or
 - (iii) be designated development.

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- (4) Exempt development cannot be carried out on:
- (a) the site of an item of environmental heritage that:
 - (i) is identified as such in an environmental planning instrument applying to the land, or
 - (ii) is listed on the State Heritage Register under the *Heritage Act 1977*, or
 - (iii) is subject to an interim heritage order under the *Heritage Act 1977*, or
 - (b) land within a heritage conservation area that is identified as such in an environmental planning instrument applying to the land, or
 - (c) land identified:
 - (i) by the consent authority on a map held in the consent authority's offices, or
 - (ii) in an environmental planning instrument, or
 - (iii) in a development control plan,as an environmentally sensitive area for exempt development,
 - (d) land:
 - (i) that is within 40 metres of a perennial watercourse identified by a 1:50,000 topographic map held by Land and Property Information NSW, or
 - (ii) that is an Aboriginal place identified by the *National Parks and Wildlife Act 1974* or contains an Aboriginal relic, or
 - (iii) that is reserved or dedicated under the *National Parks and Wildlife Act 1974*, or
 - (iv) that is a State forest dedicated under the *Forestry Act 1916*, or
 - (v) the surface of which generally has a slope greater than 18 degrees from the horizontal, or
 - (vi) that is mapped as wetland by *State Environmental Planning Policy No 14—Coastal Wetlands*.

Note. Clause 4 provides that this Policy does not apply to certain land, including land to which *State Environmental Planning Policy No 26—Littoral Rainforests* or *State Environmental Planning Policy No 73—Kosciuszko Ski Resorts* applies.

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Schedule 1

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15 When filming is exempt development

- (1) For filming at a particular location to be exempt development:
 - (a) the filming must not create significant interference with the neighbourhood, and
 - (b) a filming management plan for the filming must be prepared and lodged in accordance with subclause (2), and
 - (c) the person carrying out the filming must obtain a policy of insurance that adequately covers the public liability of the person in respect of the filming for an amount of not less than \$10,000,000, and
 - (d) the location of the filming must be land:
 - (i) that is private land, or
 - (ii) that is an iconic site, and
 - (e) if the filming is carried out on private land, the filming must not be carried out for more than 30 days within a 12-month period at the particular location, and
 - (f) the person carrying out the filming must, at least 5 days before the commencement of filming at the particular location, give notice in writing of the filming to residents within a 50-metre radius of the location in accordance with subclause (3).
- (2) A filming management plan must be lodged with the consent authority for the location at least 5 days before the commencement of filming at the location, and must contain the following information and be accompanied by the following documents:
 - (a) the name, address and telephone number of the person carrying out the filming (such as a production company) and of the producer for the filming,
 - (b) a brief description of the filming to be carried out (for example, a television commercial, a television series, a feature film or a documentary),
 - (c) the proposed location of the filming,
 - (d) the proposed commencement and completion dates for the filming at the location,
 - (e) the proposed daily length of filming at the location,
 - (f) the number of persons to be involved in the filming,

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- (g) details of any temporary structures to be erected at the location for the purposes of the filming,
 - (h) the type of filming equipment to be used in the filming (such as a hand-held or mounted camera),
 - (i) proposed arrangements for parking all vehicles associated with the filming during the filming,
 - (j) whether there will be any disruption to the location of the filming or the surrounding area and the amenity of the neighbourhood (for example, by the discharge of firearms or explosives, the production of offensive noise, vibrations, disruption to traffic flow or the release of smells, fumes, vapour, steam, soot, ash, dust, waste water, grit or oil),
 - (k) whether the filming will involve the use of outdoor lighting or any other special effects equipment,
 - (l) a copy of the public liability insurance policy that covers the filming at the location,
 - (m) a copy of any approval given by a public authority to carry out an activity associated with the proposed filming at the location, such as the following:
 - (i) an approval by the Roads and Traffic Authority for the closure of a road,
 - (ii) an approval by the council for the location concerned for the erection of a temporary structure, closure of a road or a public footpath, or a restriction in pedestrian access,
 - (iii) an approval by the Environment Protection Authority for an open fire,
 - (iv) an approval by NSW Police for the discharge of firearms,
 - (v) an approval by the Department of Land and Water Conservation for the use of Crown land.

Note. Subclause (2) does not limit the information or documents that may be submitted with a filming management plan.

- (3) The notice to residents is to be by way of a letter-box drop and is to contain the following information:
 - (a) the name and telephone number of the person carrying out the filming (such as a production company) and of a contact representative of that person,

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- (b) a brief description of the filming to be carried out at the location, and any proposed disruptions to the location or the surrounding area or the amenity of the neighbourhood (as referred to in subclause (2) (j)),
 - (c) the proposed commencement and completion dates for the filming at the location,
 - (d) the proposed daily length of filming at the location.
- (4) Clause 14 (3) (a) and (4) (d) (v) do not apply to filming that complies with this clause.
- (5) Filming that complies with this clause may be carried out on land described in clause 14 (4) (a), (b) or (c) if the filming will not involve or result in any of the following:
- (a) any changes or additions that are not merely superficial and temporary to any part of an item of environmental heritage, a heritage conservation area or an environmentally sensitive area,
 - (b) the mounting or fixing of any object or article on any part of such an item or area (including any building or structure),
 - (c) the movement, parking or standing of any vehicle or equipment on or over any part of such an item or area that is not specifically designed for the movement, parking or standing of a vehicle or equipment on or over it,
 - (d) any changes to the vegetation on, or level of, such an item or area or any changes to any other natural or physical feature of the item or area.
- (6) Nothing in this clause or clause 14 causes an activity referred to in paragraph (a)–(d) of the definition of *filming* in clause 2 (1) to be development.

Note. The following documents assist in understanding the statutory controls relating to filming:

- (a) Division 4 of Part 1 of Chapter 7 of the *Local Government Act 1993*,
- (b) the *Local Government Filming Protocol* published by the NSW Department of Local Government,
- (c) the *Guide to NSW EPA Requirements for the Film and Television Industry* published by the NSW Environment Protection Authority.

16 When rainwater tanks are exempt development

- (1) For a rainwater tank to be exempt development, it must comply with the following requirements:
 - (a) the capacity of the tank, or the combined capacity of tanks, on a lot must not exceed 10,000 litres,
 - (b) the tank must be designed to capture and store roof water from gutters or downpipes on a building,
 - (c) the tank must not collect water from a source other than gutters or downpipes on a building or a water supply service pipe,
 - (d) the tank must be fitted with a first-flush device, being a device that causes the initial run-off of any rain to bypass the tank to reduce pollutants entering the tank,
 - (e) the tank must be structurally sound,
 - (f) the tank must be prefabricated, or be constructed from prefabricated elements that were designed and manufactured for the purpose of the construction of a rainwater tank,
 - (g) the tank must be assembled and installed in accordance with the instructions of the manufacturer or designer of the tank,
 - (h) the tank, and any stand for the tank, must be installed and maintained in accordance with any requirements of the public authority that has responsibility for the supply of water to the premises on which the tank is installed,
 - (i) the installation of the tank must not involve the excavation of more than 1 metre from the existing ground level, or the filling of more than 1 metre above the existing ground level,
 - (j) the tank must not be installed over or immediately adjacent to a water main or a sewer main, unless it is installed in accordance with any requirements of the public authority that has responsibility for the main,
 - (k) the tank must not be installed over any structure or fittings used by a public authority to maintain a water or sewer main,

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- (l) no part of the tank or any stand for the tank may rest on a footing of any building or other structure, including a retaining wall,
- (m) the tank must be located behind the front alignment to the street of the building to which the tank is connected (or, in the case of a building on a corner block, the tank must be located behind both the street front and street side alignments of the building),
- (n) the tank must not exceed 2.4 metres in height above ground level, including any stand for the tank,
- (o) the tank must be located at least 450 millimetres from any property boundary,
- (p) a sign must be affixed to the tank clearly stating that the water in the tank is rainwater,

Note. If water in rainwater tanks is intended for human consumption, the tank should be maintained to ensure that the water is fit for human consumption—see the *Rainwater Tanks* brochure produced by NSW Health and the publication titled *Guidance on the use of rainwater tanks*, Water Series No 3, 1998, published by the National Environmental Health Forum.

- (q) any overflow from the tank must be directed into an existing stormwater system,
- (r) the tank must be enclosed, and any inlet to the tank must be screened or filtered, to prevent the entry of foreign matter or creatures,
- (s) the tank must be maintained at all times so as not to cause a nuisance with respect to mosquito breeding or overland flow of water,
- (t) any plumbing work undertaken on or for the tank that affects a water supply service pipe or a water main must be undertaken:
 - (i) with the consent of the public authority that has responsibility for the water supply service pipe or water main, and
 - (ii) in accordance with any requirements by the public authority for the plumbing work, and
 - (iii) by a licensed plumber in accordance with the *New South Wales Code of Practice—Plumbing and Drainage* produced by the Committee on Uniformity of Plumbing and Drainage Regulations in New South Wales,

- (u) any motorised or electric pump used to draw water from the tank or to transfer water between tanks:
 - (i) must not create an offensive noise, and
 - (ii) in the case of a permanent electric pump, must be installed by a licensed electrician.
- (2) Despite subclause (1) (a), a rainwater tank with a capacity exceeding 10,000 litres may be exempt development if another environmental planning instrument applying to the land concerned provides for such a rainwater tank to be exempt development.
- (3) This clause does not apply to land that is a lot within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.

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Schedule 2 Amendment of other environmental planning instruments

Schedule 2 Amendment of other environmental planning instruments

(Clause 5)

2.1 State Environmental Planning Policy No 60—Exempt and Complying Development

[1] Schedule 3 Exempt development

Insert at the end of the note to clause 2:

Rainwater tanks may be installed as exempt development in accordance with Part 4 of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development*.

[2] Schedule 3, clause 11

Omit “water tanks,”.

[3] Schedule 3, clause 11

Insert at the end of the clause:

Note. Rainwater tanks may be installed as exempt development in accordance with Part 4 of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development*.

2.2 Randwick Local Environmental Plan 1998

[1] Clause 25A Aerial subscriber connections to telecommunications distribution lines

Omit “Clause 5B of *State Environmental Planning Policy No 4—Development Without Consent*”.

Insert instead “Clause 5B of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development* (as substituted by *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Complying Development (Amendment No 14)*)”.

[2] Clause 25A (2)

Insert at the end of the clause:

- (2) This clause, as amended by *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Complying Development (Amendment No 15)*, extends to:
- (a) development the subject of a development application made but not finally determined before the date on which that amendment commenced, and
 - (b) development that was commenced to be carried out but not completed before that date.

[3] Clause 26A

Insert after clause 26:

26A Other exempt and complying development

Part 3 (Complying development) and Part 4 (Exempt development) of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development* apply to development on land to which this plan applies in the same way as they apply to development on land to which that Policy applies.