



New South Wales

Standard Instrument (Local Environmental Plans) Amendment (Miscellaneous) Order 2010

under the

Environmental Planning and Assessment Act 1979

JAMES JACOB SPIGELMAN, Lieutenant-Governor

I, the Honourable James Jacob Spigelman AC, Lieutenant-Governor of the State of New South Wales, with the advice of the Executive Council, and in pursuance of section 33A (1) of the *Environmental Planning and Assessment Act 1979*, make the following Order.

Dated, this 28th day of April 2010.

By His Excellency's Command,

TONY KELLY, MLC
Minister for Planning

Explanatory note

The object of this Order is to amend the standard instrument prescribed for principal local environmental plans to make minor amendments, statute law revision amendments and consequential amendments.

This Order is made under section 33A (1) of the *Environmental Planning and Assessment Act 1979*.

**Standard Instrument (Local Environmental Plans)
Amendment (Miscellaneous) Order 2010**

under the

Environmental Planning and Assessment Act 1979

1 Name of Order

This Order is the *Standard Instrument (Local Environmental Plans) Amendment (Miscellaneous) Order 2010*.

2 Commencement

This Order commences on the day on which it is published on the NSW legislation website.

Standard Instrument (Local Environmental Plans) Amendment
(Miscellaneous) Order 2010

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Amendment of Standard Instrument (Local Environmental Plans) Order
2006

Schedule 1

**Schedule 1 Amendment of Standard Instrument
(Local Environmental Plans) Order 2006**

Clause 5 Additional provisions

Omit the third paragraph from the note to the clause.

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Schedule 2 Amendment of Standard Instrument prescribed by Standard Instrument
(Local Environmental Plans) Order 2006

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[1] Clause 1.1AA

Insert after clause 1.1:

1.1AA Commencement [compulsory]

This Plan commences on the day on which it is published on the NSW legislation website.

Direction. If required another date may be specified for commencement.

[2] Clause 1.7 Maps [compulsory]

Omit “A note may be included listing the maps adopted by this Plan.” from the Direction following clause 1.7 (4).

[3] Clause 1.8 Repeal of other local planning instruments applying to land [compulsory]

Insert after clause 1.8 (1):

Note. [compulsory if any local environmental plan is wholly repealed] The following local environmental plans are repealed under this provision:

[4] Clause 1.9 Application of SEPPs [compulsory]

Omit “and any regional environmental plan” from clause 1.9 (1).

[5] Clause 1.9 (1)

Omit “prevail”. Insert instead “prevails”.

[6] Clause 1.9 (1), Note

Omit the Note.

[7] Clause 1.9 (2)

Omit “and regional environmental plans”.

[8] Clause 2.1 Land use zones [compulsory]

Omit “or subzones” and “or subzone” from Direction 2 at the end of the clause.

[9] Clause 2.3 Zone objectives and Land Use Table [compulsory]

Omit “Table” from clause 2.3 (1) and (3) wherever occurring.

Insert instead “Land Use Table”.

[10] Clauses 2.6AA and 2.6BB

Insert after clause 2.6:

2.6AA Demolition requires consent [compulsory]

The demolition of a building or work may be carried out only with consent.

Note. If the demolition of a building or work is identified in an applicable environmental planning instrument, such as this Plan or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, as exempt development, the Act enables it to be carried out without consent.

2.6BB Temporary use of land [optional]

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 [*or another number*] days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that:
 - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and
 - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
 - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
 - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

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- (4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.
- (5) Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).
Direction. Other specific exceptions to subclause (2) may be added.

[11] Land Use Table at the end of Part 2

Insert after the heading to the Land Use Table:

Note. A type of development referred to in the Land Use Table is a reference to that type of development only to the extent it is not regulated by an applicable State environmental planning policy. The following State environmental planning policies in particular may be relevant to development on land to which this Plan applies:

State Environmental Planning Policy (Affordable Rental Housing) 2009
(including provision for secondary dwellings)

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

State Environmental Planning Policy (Infrastructure) 2007 (relating to public facilities such as those for air transport, correction, education, electricity generation, health services, ports, railways, roads, waste management and water supply systems)

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

State Environmental Planning Policy (Rural Lands) 2008

State Environmental Planning Policy No 33—Hazardous and Offensive Development

State Environmental Planning Policy No 50—Canal Estate Development

State Environmental Planning Policy No 62—Sustainable Aquaculture

State Environmental Planning Policy No 64—Advertising and Signage

[12] Land Use Table, Direction 1

Omit “Table”. Insert instead “Land Use Table”.

[13] Land Use Table

Omit “Canal estate development;” from item 4 of the matter relating to Zone W1 Natural Waterways and Zone W2 Recreational Waterways wherever occurring.

[14] Clause 3.1 Exempt development [compulsory]

Insert “or, if there are no such relevant provisions, must be structurally adequate” after “*Australia*” in clause 3.1 (3) (a).

[15] Clause 3.1 (3) (d)

Omit “1977, and”. Insert instead “1977”.

[16] Clause 3.1 (3) (e)

Omit the paragraph.

[17] Clause 3.1 (5) and (6)

Insert after clause 3.1 (4):

(5) To be exempt development, the development must:

- (a) be installed in accordance with the manufacturer’s specifications, if applicable, and
- (b) not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.

Note. A permit for the removal or pruning of a tree or other vegetation may be granted under this Plan. A development consent for the removal of native vegetation may be granted where relevant under the *Native Vegetation Act 2003*.

(6) A heading to an item in Schedule 2 is part of that Schedule.

[18] Clause 3.2, Note

Insert “)” after “1995)” in paragraph (e) of the note after the heading to the clause.

[19] Clause 3.2 (5)

Insert after clause 3.2 (4):

(5) A heading to an item in Schedule 3 is part of that Schedule.

[20] Clause 4.6 Exceptions to development standards [compulsory]

Omit “RU1, RU2, RU3, RU4, RU6, R5, E2, E3 or E4” from clause 4.6 (6).

Insert instead “RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Rural Small Holdings, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living”.

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[21] Clause 5.3 Development near zone boundaries [optional]

Omit clause 5.3 (3) (a). Insert instead:

- (a) land in Zone RE1 Public Recreation, Zone E1 National Parks and Nature Reserves, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone W1 Natural Waterways, or

[22] Clause 5.3 (3), Direction

Omit “in paragraph (a)”.

Insert instead “by adding them in a separate paragraph numbered (a1)”.

[23] Clause 5.5 Development within the coastal zone [compulsory if land to which Plan applies includes land in the coastal zone]

Omit “Consent” from clause 5.5 (2) and (3) wherever occurring.

Insert instead “Development consent”.

[24] Clause 5.6 Architectural roof features [optional]

Insert “as follows” after “are” in clause 5.6 (1).

[25] Clause 5.12 Infrastructure development and use of existing buildings of the Crown [compulsory]

Omit “without consent” from clause 5.12 (1).

Insert instead “with or without consent, or that is exempt development.”.

[26] Schedule 2 Exempt development

Omit the direction. Insert instead:

Direction. The following clauses must be included in appropriate order in this Schedule as types of exempt development and relevant development standards.

Note 1. *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies exempt development under that Policy. The Policy has State-wide application. This Schedule contains additional exempt development not specified in that Policy.

Note 2. Exempt development may be carried out without the need for development consent under the Act. Such development is not exempt from any approval, licence, permit or authority that is required under any other Act and adjoining owners' property rights and the common law still apply.

[27] Schedule 2, “Rainwater tanks” and “Satellite TV dishes”

Omit the clauses.

[28] Schedule 3 Complying development

Insert after the heading to the Schedule:

Note. *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies complying development and the complying development conditions for that development under that Policy. The Policy has State-wide application. This Schedule contains additional complying development not specified in that Policy.

[29] Schedule 3, Part 2

Insert after the heading to the Part:

Note 1. Complying development must comply with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* and this Plan.

[30] Dictionary, definition of “child care centre”

Omit “NSW Office of the” from paragraph (d) of the definition.

[31] Dictionary, definition of “classified road”

Omit “(see *Roads Act 1993* for meanings of these terms).” from the note to the definition.

Insert instead “(See *Roads Act 1993* for meanings of these terms).”

[32] Dictionary, definition of “entertainment facility”

Omit “, nightclub”.

[33] Dictionary, definition of “home-based child care”

Omit “appropriately” from paragraph (a) of the definition.

[34] Dictionary, definition of “home industry”

Omit “light” from the note to the definition. Insert instead “home”.

[35] Dictionary, definition of “registered club”

Omit the definition. Insert instead:

registered club has the same meaning as in the *Registered Clubs Act 1976*, whether or not entertainment is provided at the club.