



New South Wales

State Environmental Planning Policy (Infrastructure) Amendment (Telecommunications) 2010

under the

Environmental Planning and Assessment Act 1979

The Administrator, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

TONY KELLY, MLC
Minister for Planning

State Environmental Planning Policy (Infrastructure) Amendment (Telecommunications) 2010

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Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Infrastructure) Amendment (Telecommunications) 2010*.

2 Commencement

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

3 Repeal of Policy

- (1) This Policy is repealed on the day following the day on which this Policy commences.
- (2) The repeal of this Policy does not, because of the operation of sections 5 (6) and 30 of the *Interpretation Act 1987*, affect any amendment made by this Policy.

Schedule 1 Amendment of State Environmental Planning Policy (Infrastructure) 2007

[1] Clause 5 Interpretation—general

Insert in alphabetical order in clause 5 (2):

telecommunications facility—see clause 113.

[2] Clause 113 Definitions

Omit the definition of *Cable Networks Code*.

[3] Clause 113

Insert in alphabetical order:

fibre access node means a facility that houses equipment for the purposes of a fibre to the premises distribution network.

fibre to the premises distribution network means an extensive network of optical fibre cables reaching all the way to the particular premises to which communications services are provided.

interconnect point means a facility that contains connection points for connection to a distribution network by wholesale or retail telecommunications service providers.

[4] Clause 113, definition of “telecommunications facility”

Insert “fibre access node, interconnect point” after “optical fibre,” in paragraph (b).

[5] Clause 113, definition of “telecommunications facility”

Insert at the end of paragraph (b):

, or

(c) any other thing used in or in connection with a telecommunications network.

[6] Clause 114 Development permitted without consent

Omit “electricity poles or with underground electricity facilities” from clause 114 (3).

Insert instead “electricity or cable poles or with underground electricity or cable facilities”.

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State Environmental Planning Policy (Infrastructure) Amendment
(Telecommunications) 2010

Schedule 1 Amendment of State Environmental Planning Policy (Infrastructure) 2007

[7] Clause 114 (3A)

Insert after clause 114 (3):

- (3A) To avoid doubt, development does not cease to be development permitted under subclause (3) if a cable is not co-located on a pole for safety reasons.

[8] Clause 114 (5)

Omit the subclause. Insert instead:

- (5) Development for the purposes of an underground telecommunications network cable, other than subscriber connections, may be carried out by any person without consent on any land if the existing electricity or telecommunications network cable facilities are located underground.
- (6) Before carrying out development to which subclause (5) applies, a person must:
 - (a) give written notice of the intention to carry out the development to the council for the area in which the land is located, and
 - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.
- (7) Development for the purposes of a new or existing fibre access node (including the extension of the area of an existing fibre access node or the installation of equipment, plant or structures in an existing fibre access node or an associated building) may be carried out by any person without consent on any land.
- (8) Before carrying out development to which subclause (7) applies that is not a project to which Part 3A of the Act applies, a person must:
 - (a) give written notice of the intention to carry out the development to the council for the area in which the land is located and to the occupiers of adjoining and adjacent land, and
 - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.

[9] Clause 115 Development permitted with consent

Omit clause 115 (2).

[10] Schedule 3A Exempt and complying development in relation to telecommunications facilities

Insert “for pole to premises installation” after “broadband” in item 12 in Column 1.

[11] Schedule 3A

Omit item 12.1 from Column 2. Insert instead:

12.1 The cable must be co-located with an above ground electricity supply connection.

[12] Schedule 5

Insert after Schedule 4:

Schedule 5 Savings and transitional provisions

1 Telecommunications amendments

- (1) The amendments made to this Policy by the *State Environmental Planning Policy (Infrastructure) Amendment (Telecommunications) 2010* (the **amending Policy**) do not apply to:
 - (a) development for which an application for development consent was lodged, or the carrying out of development that was commenced, before the commencement of the amending Policy, or
 - (b) an activity under Part 5 of the Act that was commenced to be considered by the determining authority (not being the proponent of the activity) before the commencement of the amending Policy.
- (2) Despite subclause (1), the amendments made by Schedule 1 [8], [9] and [11] to the amending Policy apply to development or an activity referred to in subclause (1) (a) or (b).