



New South Wales

State Environmental Planning Policy (Transport and Infrastructure) Amendment (Miscellaneous) 2022

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*.

ANTHONY ROBERTS, MP
Minister for Planning

State Environmental Planning Policy (Transport and Infrastructure) Amendment (Miscellaneous) 2022

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1 Name of Policy

This Policy is *State Environmental Planning Policy (Transport and Infrastructure) Amendment (Miscellaneous) 2022*.

2 Commencement

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

3 Repeal of Policy

This Policy is repealed on the day following the day on which this Policy commences.

Schedule 1 Amendment of State Environmental Planning Policy (Transport and Infrastructure) 2022

[1] Section 2.35 Definitions

Omit the definition of *electricity generating works*, including the note. Insert instead—
electricity generating works means a building or place used for the following purposes, but does not include a solar energy system—

- (a) making or generating electricity,
- (b) electricity storage.

[2] Section 2.35

Insert in alphabetical order—

small-scale battery system means a battery system designed only for the purposes of the storage of photovoltaic solar energy generated from a solar energy system.

[3] Section 2.35, definition of “solar energy system”

Omit paragraph (a). Insert instead—

- (a) a photovoltaic electricity generating system used for the primary purpose of generating electricity for a land use—
 - (i) carried out on the land on which the system is located, or
 - (ii) carried out by the owner of the system on adjoining land,

[4] Section 2.41 Exempt development

Omit “3 months” from section 2.41(2)(i). Insert instead “6 months”.

[5] Section 2.41(3)(b)(iii)

Omit “30 months”. Insert instead “60 months”.

[6] Section 2.41(5)

Insert after section 2.41(4)—

- (5) Development for the purposes of a small-scale battery system is exempt development if—
 - (a) the installation of the system complies with section 2.20, and
 - (b) the system complies with AS/NZS 5139:2019 *Electrical installations—Safety of battery systems for use with energy conversion equipment*, and
 - (c) the battery is approved by the Clean Energy Council, and
 - (d) the system is installed by a person accredited by the Clean Energy Council for the installation of small-scale battery systems, and
 - (e) the system is not capable of storing more than 20kWh of energy, and
 - (f) the development does not result in the installation of more than 1 system, and
 - (g) for land containing a heritage item or within a heritage conservation area—the system must be attached to the rear wall of an existing building.

[7] Section 2.63A

Insert after section 2.63—

2.63A Exempt development—COVID-19 pandemic response

- (1) The following development is exempt development—
 - (a) a change of use of a building or place to a health services facility,
 - (b) a change of use of a health services facility to another health services facility,
 - (c) the construction or installation of a temporary structure, or a temporary alteration or addition to a building or work, necessary to carry out a change of use referred to in paragraph (a) or (b).
- (2) The development must be carried out by or on behalf of—
 - (a) the Health Administration Corporation, or
 - (b) for land owned by another public authority—the owner of the land.
- (3) If the development is not carried out within the boundaries of an existing health services facility owned by a local health district or a statutory health corporation, the development must not be carried out without the written consent of the owner of the land.
- (4) Construction or demolition associated with the development—
 - (a) must only be carried out between 7am and 5pm from Monday to Saturday, and
 - (b) must not be carried out at any time on a Sunday or public holiday.
- (5) Development carried out under this section on land outside the boundaries of an existing health services facility—
 - (a) is taken to be a temporary use of land, and
 - (b) does not result in the creation of an existing health services facility.
- (6) This section is repealed 1 year after its commencement.
- (7) A word used in this section has the same meaning as in the *Health Services Act 1997* unless otherwise defined in this Policy.

[8] Section 2.139 Definitions

Insert after the definition of *ancillary facilities*, paragraph (k)—

- (l) band-pass filters that pass radio frequency in both directions through a common connector while providing isolation between ports,
For example— A triplexer, splitter or combiner.
- (m) remote radio transceivers that connect to an operator radio control panel through an electrical or wireless interface,
For example— A remote radio unit or remote radio head.
- (n) low-noise amplifiers mounted to or near the antenna in mobile masts or base transceiver stations.
For example— A tower mounted amplifier or mast head amplifier.

[9] Section 2.139, definition of “Mobile Phone Base Station Code”

Omit the definition. Insert instead—

Mobile Phone Base Station Code means the *Mobile Phone Base Station Deployment Code C564:2020* published by Communications Alliance Ltd.

[10] Section 2.139

Insert in alphabetical order—

premises connection device means an external or pole mounted enclosure used in fibre to the premises distribution networks.

riser pole means a structure, involving a support and post, attached to a building and extending vertically to facilitate a connection to premises by providing a safe clearance height.

[11] Section 2.140 Development permitted without consent

Omit section 2.140(2)(a). Insert instead—

- (a) give written notice of the authority’s intention to carry out the development to—
 - (i) if the authority is not the council of the area in which the development will be carried out—the council of the area, and
 - (ii) the occupiers of land within a 2km radius of the land on which the development will be carried out, and

[12] Section 2.144 Complying development

Insert after section 2.144(3)—

- (4) Before carrying out development involving the erection of a tower or mast under this section, a person must—
 - (a) give written notice of the person’s intention to carry out the development to—
 - (i) if the authority is not the council of the area in which the development will be carried out—the council of the area, and
 - (ii) the occupiers of land adjoining the land on which the development will be carried out, and
 - (b) consider all responses to the notice received within 21 days after the notice is given.

[13] Section 2.169

Insert after section 2.168—

2.169 Ecological restoration works

- (1) Development for the purposes of environmental protection works may be carried out by or on behalf of a public authority without development consent if the environmental protection works will give effect to the draft Cumberland Plain Conservation Plan.
- (2) In this section—

draft Cumberland Plain Conservation Plan means the document titled “The Draft Cumberland Plain Conservation Plan”, published in August 2020 on the Department’s website.

[14] Schedule 4 Exempt and complying development in relation to telecommunications facilities

Omit Part 1, item 3.1(b). Insert instead—

- (b) outriggered more than—
 - (i) 500mm from the support mount, or
 - (ii) if required for the NSW Government Telecommunications Network—2m from the support mount, or

- [15] Schedule 4, Part 1, item 3.1(c)**
Omit “Radio”. Insert instead “Telecommunications”.
- [16] Schedule 4, Part 1, item 7.1(b)**
Omit the paragraph. Insert instead—
(b) for—
(i) co-location purposes, or
(ii) the purposes of accommodating a technology upgrade for 1 or more carriers on the same tower.
- [17] Schedule 4, Part 1, item 10.4**
Omit “panel” wherever occurring. Insert instead “array”.
- [18] Schedule 4, Part 1, item 10.4**
Omit “7.5 square metres”. Insert instead “12.5m²”.
- [19] Schedule 4, Part 1, items 12.1 and 12.2**
Omit item 12.1. Insert instead—
12.1 The cable must—
(a) be co-located with an above ground electricity supply connection, or
(b) comply with item 12.2.
12.2 If the cable is not co-located with an above ground electricity supply connection—
(a) the installation of the cable must not disturb soil or vegetation any more than is necessary for the installation, and
(b) the cable must not increase run-off from the site or adversely affect stormwater drainage, and
(c) the maximum external cross section of part of a cable or a bundle of cables must not be more than 48mm, and
(d) if the cable is located on a heritage item or within a heritage conservation area—the cable must not be visible from the street at ground level from the property boundary.
- [20] Schedule 4, Part 1, item 13**
Insert “on or” before “within”.
- [21] Schedule 4, Part 1, item 13.1**
Insert in appropriate order in Column 2—
13.1 If installed on a building, the conduit or cable—
(a) must not be located on a street-facing facade of the building, and
(b) if located on a heritage item or within a heritage conservation area—must not be visible from the street at ground level from the property boundary.
- [22] Schedule 4, Part 1, item 18**
Insert after paragraph (b)—

- (c) to ensure the proper operation and efficient functioning of the telecommunications facility.

[23] Schedule 4, Part 1

Insert at the end of the Part—

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| 21 | Maintenance of existing access tracks used to access base telecommunication facilities | 21.1 The maintenance activities must— (a) be restricted to operators of a Government Telecommunications Network, and (b) not increase the width of the track, and (c) not disturb soil or vegetation any more than is necessary for the maintenance, and (d) not increase run-off from the site or adversely affect stormwater drainage. |
| 22 | The installation of a premises connection device | 22.1 The premises connection device must be— (a) mounted on an existing wall of the premises, and (b) fixed at the lowest point possible for effective operation, and (c) no more than 300mm by 300mm and 100mm deep. |
| 23 | The installation of a riser pole on premises | 23.1 The riser pole must— (a) not extend more than 900mm above the premises, and (b) be used only in association with infrastructure that is also exempt development, and (c) if located on a heritage item or within a heritage conservation area—not be visible from the street at ground level at the property boundary. |