



New South Wales

State Environmental Planning Policy Amendment (Miscellaneous) (No 2) 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 Amendment (Miscellaneous) (No 2) 2022

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1 Name of Policy

This Policy is *State Environmental Planning Policy Amendment (Miscellaneous) (No 2) 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This Policy is repealed at the beginning of the day following the day on which this Policy commences.

4 Maps

The maps adopted by *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapters 2, 4 and 6 are amended or replaced, as the case requires, by the maps approved by the Minister on the making of this Policy.

Schedule 1 Amendment of State Environmental Planning Policy (Transport and Infrastructure) 2021

[1] Section 2.15 Consultation with authorities other than councils

Insert after section 2.15(2)(g)—

- (h) development within a Western City operational area specified in the *Western Parkland City Authority Act 2018*, Schedule 2 with a capital investment value of \$30 million or more—the Western Parkland City Authority constituted under that Act.

[2] Section 2.21 Exempt development carried out by public authorities for purposes in Schedule 1

Omit “*State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*” from section 2.21(2), note.

Insert instead “Chapter 3”.

[3] Section 2.21(3)

Omit “Schedule to this Chapter”. Insert instead “Schedule 1 of this Policy”.

[4] Section 2.48 Determination of development applications—other development

Insert after section 2.48(2)—

- (3) Subsection (2) does not apply to development specified in subsection (1)(b) if the development involves only one or more of the following—
 - (a) internal alternations to a building,
 - (b) a change of use of an existing building,
 - (c) a change to the hours of operation specified in the development consent,
 - (d) a subdivision that does not involve construction work.

[5] Section 2.63 Exempt development

Omit section 2.63(2). Insert instead—

- (2) Development for the purposes of relevant signs is exempt development if—
 - (a) the development complies with section 2.20, and
 - (b) the sign—
 - (i) is located within the boundaries of an existing health services facility or is attached to an existing boundary fence for the facility, and
 - (ii) is not located on a rooftop, and
 - (iii) has a surface area of more than 3.5m² and not more than 30m², and
 - (iv) if the sign is attached to an existing boundary fence—does not project more than 1m from the fence, and
 - (c) if the sign involves lighting—the lighting complies with AS/NZS 4282:2019, *Control of the obtrusive effects of outdoor lighting*.
- (3) In this section—

Level 5 qualified arborist means an arborist with a minimum AQF Level 5 in Arboriculture under the Australian Qualifications Framework, within the meaning of the *Higher Education Act 2001*, section 7.

relevant sign means the following—

- (a) a building identification sign,
- (b) a business identification sign,
- (c) a sign providing information about safety, directions or the local community, other than a sign—
 - (i) involving commercial advertising, or
 - (ii) associated with the use of road infrastructure, including level crossings.

[6] Section 2.73(3)

Omit “a council without consent on a public reserve under the control of or vested in the council”.

Insert instead “a public authority without consent on land owned or controlled by the public authority”.

[7] Section 2.74 Exempt development

Insert after section 2.74(1)(c)—

- (d) environmental management works.

[8] Section 2.74(2)(c)

Omit the paragraph. Insert instead—

- (c) on land owned or controlled by a public authority by or on behalf of the public authority, or

[9] Section 2.94 Development permitted with consent

Omit section 2.94(1). Insert instead—

- (1) Development for one or more of the following purposes, other than development specified in section 2.92, may be carried out by a person with consent—
 - (a) the following in a rail corridor, if the development is carried out wholly or partly above a railway station—
 - (i) residential accommodation,
 - (ii) tourist and visitor accommodation,
 - (iii) commercial premises,
 - (iv) community facilities,
 - (v) public administration buildings,
 - (vi) artisan food and drink industries,
 - (vii) recreation areas,
 - (viii) recreation facilities (indoor),
 - (b) commercial premises, community facilities, public administration buildings, artisan food and drink industries, recreation areas or recreation facilities (indoor) in—
 - (i) a railway complex, including in an area used by commuters to access station platforms, or
 - (ii) below a railway complex but above ground,
Example— Circular Quay

- (c) the following in a transport interchange, other than an at-grade transport interchange, if the premises are located on the ground floor of the interchange or have street frontage—
 - (i) commercial premises,
 - (ii) community facilities,
 - (iii) public administration buildings,
 - (iv) artisan food and drink industries,
 - (v) recreation areas,
 - (vi) recreation facilities (indoor),
 - (d) bus interchanges that are integrated or associated with railway stations, but that are not owned, leased, managed or controlled by a public authority,
 - (e) markets, recreation areas or temporary structures, if the development is carried out on land that is owned, leased, managed or controlled by ARTC or Transport for NSW.
- (1A) Development for one or more of the following purposes, other than development specified in section 2.92, may be carried out by a person with consent on land in a prescribed zone—
- (a) rail freight terminals, rail freight sidings or rail freight intermodal facilities,
 - (b) commercial premises in a car park intended for use by commuters, other than an at-grade car park, if the premises—
 - (i) are located on the ground floor of the car park, or
 - (ii) have street frontage,
 - (c) car parks intended for use by commuters that are not owned, leased, managed or controlled by a public authority.

[10] Section 2.109 Development permitted without consent—general

Insert after section 2.109(2)—

- (2A) The following development for the purposes of bus depots may be carried out by or on behalf of a public authority without consent on land within the boundaries of an existing bus depot—
- (a) the erection of a building that is—
 - (i) no more than 12.5m high, and
 - (ii) not located within 5m of a property boundary for a lot in a residential or conservation zone,
 - (b) the demolition of a building.

[11] Section 2.165 Development permitted without consent

Omit “Despite clause 129A, development” from section 2.165(1).

Insert instead “Development”.

[12] Section 2.165A

Insert after section 2.165—

2.165A Development permitted without consent—landscape rehydration infrastructure works

- (1) Development for the purposes of landscape rehydration infrastructure works may be carried out by a person without consent on land in the following zones—
- (a) Zone RU1 Primary Production,
 - (b) Zone RU2 Rural Landscape,
 - (c) Zone RU4 Primary Production Small Lots.

Note— This development requires a controlled activity approval under the *Water Management Act 2000* and may require a licence under the *Crown Land Management Act 2016*.

- (2) In this section—
landscape rehydration infrastructure works means works involving placing permeable structures on the bed of a stream to reduce erosion and maintain or restore flows for ecological purposes, not including works designed to impound water or impede the passage of fish.

[13] Section 3.3 Interpretation

Insert after section 3.3(7)—

- (8) A requirement in this Chapter that a building be no more than a specified number of storeys high is a requirement that the building be no more than the specified number of storeys higher than ground level (existing).

[14] Section 3.17 Exempt development for Schedule 5 purposes carried out by public authorities in connection with educational establishments

Insert after section 3.17, note—

- (2) Development for the purposes of security fences specified in Schedule 5 may also be carried out in connection with an educational establishment that is not existing but for which development consent has been granted.

[15] Section 3.34 Interpretation

Insert in alphabetical order in section 3.34(1)—

approved school means a school for which development consent has been granted, other than an existing school.

[16] Sections 3.36(2), (3) and (10), 3.37(1), 3.39(1) and (3)(a), 3.40(1)–(3) and 3.41(2)(a)

Omit “existing school” wherever occurring. Insert instead “existing or approved school”.

[17] Sections 3.39, heading and 3.40, heading

Insert “and approved” after “Existing” wherever occurring.

[18] Section 6.7 Conditions of applicable development consents

Insert “or vibration” after “noise” in section 6.7(1)(a).

[19] Section 6.7(1)(b)

Insert “other than conditions relating to fill, earthworks, dust minimisation or meteorological monitoring” after “quality”.

[20] Section 6.7(1)(d)

Omit “environmentally”. Insert instead “ecologically”.

[21] Section 6.7(1)(f)

Omit the paragraph.

[22] Section 6.7(1)(g)

Insert “and riparian corridors” after “biodiversity”.

[23] Section 6.7(1)(k)

Omit “stormwater and drainage”.

Insert instead “rainwater reuse and on-site stormwater detention and drainage”.

[24] Section 6.7(1)(q)–(v)

Insert after section 6.7(1)(p)—

- (q) shipping container transfer or movement,
- (r) intermodal rail transport,
- (s) demolition,
- (t) telecommunications,
- (u) parking,
- (v) heritage.

[25] Section 6.7(2)

Omit the subsection. Insert instead—

- (2) This section does not apply to a condition of a development consent that—
 - (a) limits development on the land to the use permitted by the development consent, or
 - (b) limits the time of day during which construction may be carried out.

[26] Schedule 1 Exempt development—Chapter 2

Omit “*State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*” from Schedule 1, note.

Insert instead “Chapter 3”.

[27] Schedule 1

Insert in appropriate order in the matter relating to **General provisions**—

- | | |
|-------------------------|--|
| Bush regeneration works | <ul style="list-style-type: none">• May involve the installation of temporary fencing.• Must not involve—<ul style="list-style-type: none">(a) the creation of access tracks, or(b) the use of machinery, or(c) works involving significant soil disturbance. |
|-------------------------|--|

[28] Schedule 1

Omit the matter relating to “Fences—erection of security fences”. Insert instead—

- | | |
|------------------------------------|---|
| Fences—erection of security fences | <ul style="list-style-type: none">• Must be on land owned or controlled by a public authority.• Height must not exceed 3m above ground level (existing). |
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[29] Schedule 5 Exempt development—Chapter 3

Omit “for infrastructure facility and” from the matter relating to Fences—erection of security fences.

[30] Schedule 5

Omit the fourth bullet point from the matter relating to “Sheds”.

Schedule 2 Amendment of State Environmental Planning Policy (Planning Systems) 2021

[1] Section 2.10, heading

Omit “Exclusion of application of development control plans”.

Insert instead “Application of development control plans to State significant development”.

[2] Section 2.10(2)

Insert at the end of the section—

- (2) A requirement of an environmental planning instrument that a development control plan be prepared before development consent can be granted to development does not apply to—
 - (a) State significant development, or
 - (b) development for which a relevant council is the consent authority under the Act, section 4.37.

[3] Schedule 3 State significant infrastructure—general

Omit section 4(1A). Insert instead—

- (1A) Subsection (1) does not apply to development for the purposes of upgrading water treatment facilities carried out by or on behalf of Sydney Water Corporation or Hunter Water Corporation.