

State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007

[2007-498]



New South Wales

Status Information

Currency of version

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Previously named**
 - State Environmental Planning Policy (Temporary Structures) 2007
 - State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007



New South Wales

Part 1 Preliminary

1 Name of Policy

This Policy is *State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007*.

2 Commencement

This Policy commences on 26 October 2007.

3 Aims of Policy

The aims of this Policy are as follows:

- (a) to provide that the erection of temporary structures is permissible with consent across the State,
- (b) to ensure that suitable provision is made for ensuring the safety of persons using temporary structures,
- (c) to encourage the protection of the environment at the location, and in the vicinity, of temporary structures by specifying relevant matters for consideration,
- (d) to provide that development comprising the subdivision of land, the erection of a building or the demolition of a building, to the extent to which it does not already require development consent under another environmental planning instrument, cannot be carried out except with development consent.

4 Land to which Policy applies

This Policy applies to the State.

5 Interpretation

- (1) A word or expression used in this Policy has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental*

Plans) Order 2006 unless it is otherwise defined in this Policy.

(2) In this Policy:

building has the same meaning as in the Act.

Crime Prevention Guidelines means the guidelines, issued by the Department of Urban Affairs and Planning in April 2001, entitled *Crime prevention and the assessment of development applications: Guidelines under section 79C of the Environmental Planning and Assessment Act 1979* (ISBN 0 7347 0184 5).

private function means any function or event that is not a community event.

temporary structure has the same meaning as in the Act.

the Act means the *Environmental Planning and Assessment Act 1979*.

(3) (Repealed)

6 Notes

Notes in this Policy are provided for guidance and do not form part of this Policy.

7 Consent authority

The consent authority for development that may be carried out with consent under this Policy is:

- (a) except as provided by paragraph (b), the council of the area in which the development is proposed to be carried out, or
- (b) any public authority that under another environmental planning instrument has the function of determining development applications for that kind of development on the land on which it is proposed to be carried out.

8 Relationship with other environmental planning instruments

Subject to section 74 (1) of the Act, in the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.

9, 10 (Repealed)

Part 2 Erection of temporary structures

11 Permissibility of erection of temporary structures

- (1) Development comprising the erection of a temporary structure may be carried out only with development consent, except as otherwise provided by any other environmental planning instrument that specifies that development as exempt or

complying development.

- (2) Subclause (1) does not apply to development comprising the erection of a temporary structure that is exempt development or complying development, or is prohibited, under another environmental planning instrument.
- (3) For the purposes of subclause (2), the existing provisions of an environmental planning instrument are taken to prohibit development comprising the erection of a temporary structure only if, in doing so, temporary structures or a relevant class of temporary structures are expressly referred to.
- (4) In this clause:

existing provisions of an environmental planning instrument means provisions of the environmental planning instrument:

- (a) as in force immediately before 26 October 2007, or
- (b) as amended on or after 26 October 2007, but before 26 October 2008, by some other environmental planning instrument that, immediately before 26 October 2007, was the subject of:
 - (i) a decision under section 54 of the Act, or
 - (ii) a direction under section 55 of the Act to make such a decision, or
- (c) as inserted in the environmental planning instrument on or after 26 October 2007, but before 26 October 2008, by some other environmental planning instrument that, immediately before 26 October 2007, was the subject of:
 - (i) a decision under section 54 of the Act, or
 - (ii) a direction under section 55 of the Act to make such a decision.

12 Matters for consideration

Before granting consent to the erection of a temporary structure, the consent authority must consider the following matters:

- (a) whether the number of persons who may use the structure at any one time should be limited,
- (b) any adverse impact on persons in the vicinity of any noise likely to be caused by the proposed erection or use of the structure and any proposed measures for limiting the impact,
- (c) whether the hours during which the structure is used should be limited,
- (d) any parking or traffic impacts likely to be caused by the erection of the structure or its proposed use,

- (e) the principles for minimising crime risk set out in Part B of the Crime Prevention Guidelines,
- (f) whether the proposed location of the structure is satisfactory in terms of the following:
 - (i) the proposed distance of the structure from public roads and property boundaries,
 - (ii) the location of underground or overhead utilities,
 - (iii) vehicular and pedestrian access,
- (g) whether it is necessary to provide toilets and washbasins in association with the use of the structure,
- (h) whether the structure is proposed to be erected on land that comprises, or on which there is:
 - (i) an item of environmental heritage that is listed on the State Heritage Register, or that is subject to an interim heritage order, under the [Heritage Act 1977](#), or
 - (ii) a place, building, work, tree, relic or Aboriginal object that is described as an item of environmental heritage or as a heritage item in another environmental planning instrument, or
 - (iii) land identified as a heritage conservation area, an archaeological site or a place of Aboriginal heritage significance in another environmental planning instrument,
- (i) the duration for which the structure should be permitted to remain on the land concerned,
- (j) whether any conditions should be imposed on the granting of consent in relation to the dismantling or removal of the structure in view of any safety issues.

Part 3 Subdivision, demolition, change of use and fire alarm communication links

Note—

Certain development under this Part may be exempt or complying development under another environmental planning instrument, for example, [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#).

13 Land to which Part applies

- (1) This Part applies to land other than land to which a standard plan applies.
- (2) In this clause, **standard plan** means a local environmental plan (whether made before or after the commencement of this clause) that has been made as provided by section 33A (2) of the Act.

14 Subdivision of land

- (1) A person may subdivide land to which this Part applies, but only with development consent.
- (2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated that would result in the secondary dwelling being on a different lot of land to the principal dwelling unless each proposed lot on which those dwellings would be situated would comply with the minimum lot size (if any) required by an environmental planning instrument applying to the land.

Note—

The standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#) contains the following definitions of **secondary dwelling** and **principal dwelling**:

secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the **principal dwelling**), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.

14A Demolition of a building or work

A person may demolish a building or work on land to which this Part applies, but only with development consent.

14B Change of use

- (1) A person may, only with development consent, change the use of a building on land to which this Part applies within a business zone:
 - (a) that is being lawfully used for a particular kind of office or business premises to another kind of office or business premises or to a shop, or
 - (b) that is being lawfully used for a particular kind of shop (other than a neighbourhood shop) to another kind of shop or to an office or business premises, even though the proposed change of use is prohibited in that zone under another environmental planning instrument.
- (2) The consent authority must not grant development consent as referred to in this clause unless satisfied that the proposed change of use will not have more than a minor environmental effect and is in keeping with the objectives (if any) of the zone in which the relevant land is situated.
- (3) The consent authority must not grant development consent as referred to in this clause to the change of use of a building if it would result in the change of

classification of the building under the *Building Code of Australia*.

- (4) The consent authority must not grant development consent as referred to in this clause to the change of use of a building for the purposes of sex services premises.
- (5) In this clause, **business zone** means a zone within the meaning of an environmental planning instrument and identified in that instrument as being a business or commercial zone.

14C Fire alarm communication link works

- (1) This clause applies to a fire alarm system that can be monitored by Fire and Rescue NSW or by a private service provider.
- (2) The following development may be carried out, but only with development consent:
 - (a) the conversion of a fire alarm system from connection with the fire alarm monitoring network of Fire and Rescue NSW to connection with the fire alarm monitoring network of a private service provider,
 - (b) the conversion of a fire alarm system from connection with the fire alarm monitoring network of a private service provider to the fire alarm monitoring network of another private service provider,
 - (c) the conversion of a fire alarm communication link from a connection with the fire alarm monitoring network of a private service provider to another fire alarm monitoring network of another private service provider.

- (3) In this clause:

fire alarm communication link has the same meaning as in the *Environmental Planning and Assessment Regulation 2000*.

private service provider has the same meaning as in the *Environmental Planning and Assessment Regulation 2000*.

Parts 4, 5

15-19 (Repealed)

Schedules 1-4 (Repealed)