



STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

Proposed amendment to Division 21 - Telecommunications and other communication facilities

Explanation of Intended Effect

August 2021



Published by NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

Title: Proposed amendment to Division 21 - Telecommunications and other communication facilities

Subtitle: Explanation of Intended Effect

© State of New South Wales through Department of Planning, Industry and Environment 2021. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning, Industry and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (August 2021) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Industry and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Contents

Introduction	1
About the proposed amendments	1
Proposed amendments	2
Definitions	2
Development permitted without consent.....	2
Exempt development provisions	3
Complying development provisions	5
How to get involved	5

Introduction

Telecommunications networks are central to how people work, do business and stay connected. People are increasingly working from home and dialling into online video meetings.

Good access to telecommunications networks is essential and the Department of Planning, Industry and Environment is proposing amendments to a planning instrument that will enable the timely delivery of modern telecommunications infrastructure, while protecting residential amenity, the environment and heritage.

Some small-scale telecommunications infrastructure with limited impacts can be unnecessarily delayed through the development assessment process.

The proposed amendments aim to match the level of planning assessment with the scale of a development's impact.

This supports the NSW Government's goal of creating a streamlined, certain, and transparent planning system.

About the proposed amendments

The proposed amendments are to *State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP), which facilitates flexible planning pathways for the development of essential infrastructure in NSW, including telecommunications infrastructure.

The proposed amendments aim to:

- Provide a consistent and efficient planning regime for the development of telecommunications infrastructure.
- Revise definitions of telecommunication infrastructure and facilities to reference contemporary technology and terminology.
- Speed up timeframes for the development certain infrastructure projects by updating the development without consent provisions for the NSW Telco Authority.
- Expand exempt and complying provisions to reduce the time required for minor works.
- Allow for general housekeeping updates.

The amendments also aim to reflect updates at a Commonwealth level. The *Telecommunications (Low-impact Facilities) Determination 2018* (the Determination), *Telecommunications Code of Practice 2018*, and the *Industry Code for Mobile Phone Base Station Deployment C564:2020* have been updated since the last major update to telecommunications provisions in the Infrastructure SEPP in 2010.

In addition to the amendments to the SEPP, the department also intends to update the accompanying guidance document, the [NSW Telecommunications Facilities Guideline including Broadband \(July 2010\)](#) (the Guideline).

Proposed amendments

The proposed amendments will update legislative definitions and propose amendments to three planning pathways:

- **development without consent** – development undertaken by a public authority such as the NSW Telco Authority that can be self-assessed and self-determined
- **complying development** – development that must comply with prescribed conditions within an environmental planning instrument and will be certified by an approved authority
- **exempt development** – minor development not subject to assessment or consent.

Definitions

Proposed amendment	Effect of proposed amendment
<p>Include additional types of ancillary facilities within Clause 113 (Definitions) for tower and mast head amplifiers, remote radio units, combiners and triplexers.</p> <p>Further detail and specifications of this equipment will be included in the update to the Guideline.</p>	<p>This will permit various small-scale and unobtrusive elements, routinely deployed to optimise performance of base stations and other telecoms installations, to be installed under the exempt development provisions within Schedule 3A.</p>
<p>Update references in Division 21 from '<i>Mobile Base Station Deployment Code</i>' to '<i>Mobile Phone Base Station Deployment Code C564:2020 and successive versions</i>', including the definition in Clause 113 and references in clauses 116(f), 116A (2) (e) & C1116B (b) (ii).</p>	<p>This replaces an outdated reference to align with the <i>Mobile Phone Base Station Deployment Code</i> (Communications Alliance Ltd). The Code requires carriers to consult with communities and to adopt a 'precautionary principle' in the site selection, design and operation of mobile phone base stations.</p>

Development permitted without consent

Proposed amendment	Effect or proposed amendment
<p>Amend Subclause (2) (a) of Clause 114 (Development Permitted without Consent) to retain the requirement to for written notice of intention to carry out development but limit the extent of the notification to properties within 2km of the site.</p>	<p>This will reduce the burden on public authorities, such as the NSW Telco Authority, who often have base stations within remote or unpopulated areas such as national parks, where current arrangements require the authority to notify a significant number of properties that may be many kilometres away from the base station site.</p> <p>The proposed 2km limit will still ensure those living in adjoining properties within a reasonable proximity of the site are notified.</p>

Exempt development provisions

Proposed amendment	Effect of proposed amendment
<p>Amend Schedule 3A, Part 1, Item 3 which relates to omni-directional antenna, to allow for an outriggered antenna up to 2000mm from the support pole (increased from the current 500mm provision), only if required for a NSW Government Telecommunications Network.</p> <p>Update the reference to <i>Government Radio Network</i> to the reference of <i>Government Telecommunications Network</i> within Schedule 3A, Part 1, Item 3.1 (c).</p>	<p>This will allow for a greater level of outrigging from an omnidirectional antenna to match updated standard design specifications of NSW Government Telecommunications Network, which have changed since the adoption of Schedule 3A in 2010, as a result of increased outrigging requirements.</p>
<p>Amend Schedule 3A, Part 1, Item 7 to allow the extension to an existing tower of up to 5m in height on land outside Zone R1, R2, R3, R4, R5 or RU5.</p>	<p>This would allow carriers to undertake an extension of height of an existing tower of up to 5m for the purposes of co-location of two technologies provided by the same carrier (e.g. for 4G and 5G networks).</p> <p>This would be limited to a maximum cumulative extension of up to 5m.</p>
<p>Amend Schedule 3A, Part 1, Item 10.4, which relates to solar panels powering telecommunications equipment housed above ground under exempt development, to increase the allowable surface area of the solar installation from 7.5sqm to 12.5sqm.</p> <p>The wording 'solar panel' will also be updated to 'solar array' to clarify what is permissible.</p>	<p>Solar generated power as a substitute for mains power requires a solar panel frame/s, to which solar panels are attached. This amendment clarifies the ability to develop a solar array on aboveground housing at a telecommunications installation.</p> <p>The increased allowable size aligns with Commonwealth legislation.</p>
<p>Amend Schedule 3A, Part 1, Item 12 to facilitate above ground cabling as exempt development where there is no opportunity to co-locate with an existing electricity supply connection.</p> <p>This is restricted such that the development cannot be visible from the street at ground level from a property boundary of a heritage item or within a heritage conservation area.</p>	<p>Currently, above ground cabling is only exempt development where it is co-located with an above ground electricity supply. The amendment will introduce an exempt development pathway where there is no existing electricity supply, or co-location is not possible due to safety reasons.</p>
<p>Amend Schedule 3A, Part 1, Item 13 to permit a conduit or cable to be installed on a building for subscriber connection or fibre optic cable for broadband.</p> <p>This is restricted such that the conduit or cable cannot be located on a principal facade facing the street and cannot be visible from street at ground level from property boundary of a heritage item or within a heritage conservation area.</p>	<p>Conduits or cables can be installed within a building for subscriber connections as exempt development. This will extend the provision to cables or conduits 'on' a building, other than buildings that are heritage items or within a heritage conservation area.</p> <p>This will assist the connection of NBN to premises, as there is often a requirement to attach cables, or conduits to protect the cables, on the outside of premises. This provision will avoid the requirement for development applications for these minor works.</p>

Proposed amendment	Effect of proposed amendment
<p>Amend the wording of Schedule 3A, Part 1, Item 18, which relates to ancillary facilities to a telecommunications facility, to include a new sub-clause (c) '<i>to ensure the proper operation and efficient functioning of the telecommunications facility</i>'.</p>	<p>This clarifies that equipment regularly utilised to optimise the performance of base stations and installations, such as remote radio units, can be installed under exempt development as ancillary facilities.</p> <p>This will align with Commonwealth legislation, which identifies that ancillary equipment and facilities intended for the proper operation or functioning of a low-impact facility are also low impact facilities, and can therefore be installed without the requirement for planning consent, subject to the conditions set out in the Commonwealth legislation.</p>
<p>Create a provision within Schedule 3A, Part 1 to facilitate the upgrade or repair of existing access tracks serving base station sites.</p> <p>This is restricted to operators of a Government Telecommunications Network, as access tracks are generally required to existing greenfield tower locations in remote locations.</p>	<p>This would permit the repair or upgrade of an existing access track to an existing communications facility, ensuring safe access while removing the need for a development application for minor upgrade or repair works.</p>
<p>Create a provision within Schedule 3A, Part 1 to make Investigations to be exempt development (including geotechnical and other testing, surveying and the placement of survey marks, and sampling) relating to telecommunications network development or when determining the safety or condition of telecommunications infrastructure.</p>	<p>This will clarify the planning pathway for geotechnical and other investigation activity associated with a telecommunications facility.</p> <p>These investigations are permitted as exempt development under Schedule 1 of the Infrastructure SEPP, subject to there being no greater disturbance of ground or vegetation than necessary, and no increase in stormwater drainage run off from the site. This will bring Schedule 3A in line with Schedule 1.</p>
<p>Create a provision within Schedule 3A, Part 1 that allows the installation of a <i>premises connection device</i> (PCD) – a separate means of enclosure attached to the outside of a premises to house a cable connection for a fixed line subscriber connection - as exempt development.</p> <p>This will be supported with development standards that require the PCD to be mounted on the existing premises wall, be fixed at the lowest point possible for effective operation and not more than 300mm by 300mm (square) by 100mm deep in size.</p> <p>Add a definition for PCD within Clause 113.</p>	<p>PCDs are not defined in the Infrastructure SEPP, despite being essential elements to connect premises to the NBN's fixed line network.</p> <p>This proposed provision will facilitate their installation on a building as exempt development to avoid the need for development applications.</p>

Proposed amendment	Effect of proposed amendment
<p>Create a provision within Schedule 3A, Part 1 to permit the installation of a riser pole – a structure attached to a building involving a support and post, which extends vertically to facilitate a connection to a premises and provide required clearance height for safety purposes - on a premises as exempt development.</p> <p>Require the riser pole to not extend more than 900mm in height above the building and if located on a heritage item or in a heritage conservation area, ensure they are not be visible from the street at ground level from the property boundary.</p>	<p>NBN often needs to install riser poles for aerial subscriber connections to dwellings and premises where below ground connections are not available. This would allow them to be installed as exempt development.</p>

Complying development provisions

Proposed amendment	Effect of proposed amendment
<p>Create a provision within Clause 116A (Complying Development) that requires anyone deploying a new tower or mast under this clause (where the <i>Mobile Phone Base Station Deployment Code</i> does not apply) to:</p> <p>(i) give written notice of the intention to carry out the development to the relevant council and to the occupiers of any adjoining land, and</p> <p>(ii) take into consideration any response to the notice that is received within 21 days after the notice is given.</p>	<p>This will ensure that developers not currently bound by the requirements of the <i>Mobile Phone Base Station Deployment Code</i> (for example, private fixed-wireless broadband carriers) are required to undertake appropriate consultation with occupiers of adjoining land and council.</p>

How to get involved

This Explanation of Intended Effect describes the potential effects of a proposed amendment to Division 21 - Telecommunications and other communication facilities, and the associated Schedule 3A of the Infrastructure SEPP.

It is exhibited in line with the department's Community Participation Plan, which aims to involve more people in decisions relating to the NSW planning system.

To make a submission on the amendments proposed in this document please go to planningportal.nsw.gov.au/isepp-telecommunications