



PLANNING SYSTEM

State environmental planning policies

Circular	PS 09–010
Issued	3 April 2009
Related	

Exempt development—temporary structures for film making and filming activities on any land

The purpose of this circular is to advise local councils of the amendment to State Environmental Planning Policy No. 4—Development without Consent and Miscellaneous Exempt and Complying Development regarding exempt development and filming activities.

Introduction

The *Filming Related Legislation Amendment Act 2008* (Filming Amendment Act) commenced on 30 March 2009.

The Filming Amendment Act was assented to on 25 June 2008 to support the screen industry by reducing or simplifying regulatory impediments to the carrying out of filming projects. The changes the Act brings about are designed to enable NSW to attract and maintain domestic and international film, television and TV commercial production, in a very competitive marketplace.

The Filming Amendment Act has the effect of amending a number of legislative instruments, including State Environmental Planning Policy No. 4—Development without Consent and Miscellaneous Exempt and Complying Development (SEPP 4). The amendments to SEPP 4 provide for temporary structures or temporary alterations or additions to a building or work for the sole purpose of filming to be exempt development, under certain conditions. Filming may also be exempt development on any land to which SEPP 4 applies, except for land listed in clause 14(4) upon which exempt development may not be carried out.

The Filming Amendment Act also amends Schedule 2—Exempt Development of the Standard Instrument (Local Environmental Plans) Order 2006.

SEPP 4 and the Filming Amendment Act

SEPP 4 as it was prior to the amendment, exempted filming activities from requiring development consent where:

- the filming was located on private land, an iconic site, or on Crown land
- there was no significant interference with the neighbourhood
- a filming management plan was prepared and lodged
- the person carrying out the filming had the required insurance
- if on private land, the filming was carried out for not more than 30 days within a 12 month period
- the required notice was provided.

Notices to residents by way of a letterbox drop are required by SEPP 4 for filming to be exempt. Tents and marquees used for the sole purpose of filming are exempt development where they comply with the requirements of clause 15A of SEPP 4.

The Filming Amendment Act amends SEPP 4 in the following ways:

- location—filming may now be exempt development on any land, not just private land, an iconic site or Crown land
- temporary structures¹ and temporary alterations or additions to buildings or works may now be exempt development where:

¹ *Temporary structure* means a temporary structure other than a tent or marquee.

- the development is for the sole purpose of filming
- the temporary structure will not remain in place for more than 30 days within a 12 month period
- the temporary structure, or building or work in its altered or added to form is not accessible to the public.

To be exempt development, the erection or use of the temporary structure or temporary alteration or addition must also comply with clause 14—*Exempt development* of SEPP 4.

Local Government Filming Protocol

In relation to the use of council land, community land, regulating traffic and the like, the Filming Amendment Act requires all local councils to comply with the revised *Local government filming protocol: New South Wales—film friendly* (2009) published by the Department of Local Government when determining filming permission applications or setting fees.

The revised Filming Protocol applies to all local councils in NSW except those councils that have adopted another filming protocol that has been approved by the Director General of the Department of Local Government. The Department of Planning has been consulted in the preparation of the revised protocol.

Filming activities are allowed on community land even without expressed approval in the applicable plan of management, as provided for in the Filming Amendment Act.

Councils are also required to appoint a Film Contact Officer who will assist filmmakers in obtaining the necessary permission, support and access to council services.

Filming activities on private land

The Filming Protocol provides that permission from a local council is not required for filming and associated activity that takes place entirely on private land.

If filming is primarily on private land but associated activity occurs on public land, then it may be necessary, subject to legislative requirements, for a filming permission to be sought for these associated activities. Conditions to ensure public safety, and relevant fees and charges may be applicable for such approvals, for example, running a cable across the footpath from the private property to a generator or management of reserved vehicle parking.

Filmmakers must notify council when filming is entirely contained within private land, and are under an obligation to notify surrounding residents and businesses.

Filming activities on public land

The Filming Protocol provides that:

- local councils (and other government agencies) may require approvals in their role as the regulator of public land
- filmmakers may need a licence or approval to film on public land in some circumstances, for example when they need to close a road, to

- ensure exclusive use of public land or where a government agency requires the owner's or owners' consent to undertake activities on its land
- filming is excluded from some land, such as wilderness areas, and approval may not be granted for the use of land where public safety is compromised
- news and current affairs filming does not require approval on public land
- other filming and associated activities may be subject to approvals depending on the nature of the land and the nature of the activities.

Other approvals

The responsibility for obtaining relevant approvals from other authorities remains with the filmmaker. A number of these include:

- indigenous approvals
- private property (permission from the property owner will be required to film on privately owned land)
- children's employment—filmmakers must hold an authority to employ any child less than 15 years of age for entertainment in NSW
- Roads and Traffic Authority
- NSW Police
- various authorities managing specific high-profile locations.

The Filming Protocol is available on the Department of Local Government's website at <http://www.dlg.nsw.gov.au>.

Further information

The *Filming Related Legislation Amendment Act 2008*, and State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development as amended, are available on the NSW legislation website at: <http://www.legislation.nsw.gov.au>.

Note: This and other Department of Planning circulars are published on the web at <http://www.planning.nsw.gov.au/planningsystem/practicenotes>.

Authorised by:

Sam Haddad
Director-General
NSW Department of Planning

Important note: This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

© State of New South Wales through the Department of Planning www.planning.nsw.gov.au.

Disclaimer: While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agencies and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.