

The *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019 (UPSS Regulation)* provides powers to the appropriate regulatory authority to exempt a person or a class of persons from any of the requirements of the Regulation.

Councils are the regulatory authority for most underground petroleum storage systems (UPSSs) in their local government area. Councils can exempt a person responsible for a UPSS in their local area

from complying with any of the requirements of the Regulation. Current exemptions that are granted by the NSW EPA under the *UPSS Regulation 2014* should be reviewed by Council. It is best practice for Council not to renew these exemptions because they were granted, in most cases, to provide sufficient time for UPSS sites to comply with the Regulation. It would only be under exceptional circumstances that an exemption is granted or renewed.

## ENVIRONMENTAL COMPLIANCE AND INSPECTION ROLE

Exemptions from the provisions of the *UPSS Regulation* may be granted on the basis of the categories in Table 12. Additional information is provided in [UPSS Technical Note: Site Sensitivity Assessment](#).<sup>24</sup>

It is best practice for Councils to no longer grant exemptions to UPSS operators to one or more provisions of the *UPSS Regulation*.

**Table 12:** Categories for exemptions from provisions of the *UPSS Regulation*

Category	Description	Risk-based site sensitivity assessment to be requested by Council?
<b>Category 1</b>	General exemption from all provisions of the <i>UPSS Regulation</i> for backup generator tanks, waste oil tanks and heating oil tanks	
<b>Category 2</b>	Sites outside environmentally sensitive zones exempt from installing groundwater wells	
<b>Category 3</b>	Sites inside environmentally sensitive zones exempt from installing groundwater wells	
<b>Category 4</b>	Exemption from specific requirements of the <i>UPSS Regulation</i>	

**Note:** *UPSS Regulation* = *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019*.

<sup>24</sup> <https://www.environment.nsw.gov.au/resources/clm/1034technotessa.pdf>

# UPSS EXEMPTIONS

The following checklist in Table 13 may be used by Council to decide if an exemption should be granted.

**Table 13:** Checklist for the decision-making (regulation) by Council to decide whether an exemption should be granted

Components of risk-based site sensitivity assessment	Included (Y/N)	Adequate (Y/N)	Comments and remedy (why 'no'? how is compliance reached?)
Is the information provided adequate and complete to allow Council to make an informed decision?			
Are the human health and ecological risks identified?			
Is assessment proportionate to the risks identified?			
Is evidence provided that the nature of the risk to environmental receptors is manageable?			
Are there any alternatives provided to meet the UPSS requirements?			
Are levels of residual contamination on the site acceptable for the current or proposed use? Does the site history demonstrate that any past contamination incidents have been satisfactorily remediated?			
Are pollution prevention equipment, management practices and satisfactory compliance with other provisions of the <i>UPSS Regulation</i> adequate to make an informed decision?			

Note: UPSS = underground petroleum storage system; *UPSS Regulation* = *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2019*.