



New South Wales

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)

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* in accordance with the recommendation made by the Minister for Planning. (S07/00956-1)

KRISTINA KENEALLY, M.P.,
Minister for Planning

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)*.

2 Aims of Policy

The aims of this Policy are:

- (a) to identify the land to which this Policy applies as a State significant site under *State Environmental Planning Policy (Major Projects) 2005*, and
- (b) to promote economic development and the creation of employment in the Wyong Employment Zone by providing for development for a wide range of employment-generating industrial, manufacturing, warehousing, storage or research purposes, and
- (c) to provide for the co-ordinated planning and development of land within the Wyong Employment Zone, and
- (d) to rezone land to which this Policy applies for general industrial and environmental conservation purposes, and
- (e) to provide for appropriate development in the Wyong Employment Zone that satisfies the principles of ecologically sustainable development, and
- (f) to identify and conserve land within the Wyong Employment Zone that has high biodiversity values for environmental protection and conservation purposes and restrict development on flood prone land.

3 Land to which Policy applies

This Policy applies to the land shown edged heavy black on the map marked "State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)—Wyong Employment Zone—Land Application Map" held at the head office of the Department.

**4 Amendment of State Environmental Planning Policy (Major Projects)
2005**

State Environmental Planning Policy (Major Projects) 2005 is
amended as set out in Schedule 1.

2008 No 496

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 4)

[1] Clause 16 Savings and transitional provisions

Insert at the end of clause 16 (2) before the note:

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)

[2] Schedule 3 State significant sites

Insert in appropriate order in Schedule 3:

Part 15 Wyong Employment Zone

1 Land to which this Part applies

This Part applies to the land shown edged heavy black on the map marked “State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)—Wyong Employment Zone—Land Application Map” held in the head office of the Department (the *Wyong Employment Zone*).

2 Interpretation

(1) Except as provided by subclause (2), a word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

(2) In this Part:

Land Reservation Acquisition Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)—Wyong Employment Zone—Land Reservation Acquisition Map.

the Wyong DCP means *Development Control Plan 2005—Development Controls for Wyong Shire*, as adopted by the Wyong Shire Council on 14 May 2008.

Zoning Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)—Wyong Employment Zone—Zoning Map.

3 Consent authority

The consent authority for development on land within the Wyong Employment Zone is, subject to the Act, the Wyong Shire Council.

4 Maps

- (1) A reference in this Part to a named map adopted by this Part is a reference to a map by that name:
 - (a) approved by the Minister when the map is adopted, and
 - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Part to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.

5 Relationship with other environmental planning instruments

- (1) This Policy and all other State environmental planning policies (other than *State Environmental Planning Policy No 1—Development Standards*) apply, according to their terms, to land within the Wyong Employment Zone.
- (2) *Wyong Local Environmental Plan 1991* does not apply to land within the Wyong Employment Zone.

6 Land use zones

- (1) For the purposes of this Policy, land within the Wyong Employment Zone is in a zone as follows if the land is shown on the Zoning Map as being within that zone:
 - (a) Zone IN1 General Industrial,
 - (b) Zone SP2 Infrastructure,
 - (c) Zone E2 Environmental Conservation.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

7 Zone IN1 General Industrial

- (1) The objectives of Zone IN1 General Industrial are as follows:
 - (a) to facilitate development for a wide range of employment-generating industrial, manufacturing, warehousing, storage or research purposes, including ancillary office space,

- (b) to encourage employment opportunities in the Wyong Employment Zone,
 - (c) to minimise any adverse effect of industry on other land uses,
 - (d) to ensure development enhances the amenity of the Wyong Employment Zone by including high quality landscaping, adequate building setbacks, high quality external finishes and the like.
- (2) Development for any of the following purposes is permitted with consent on land within Zone IN1 General Industrial:
- boat repair facilities; child care centres; community facilities; depots; earthworks; environmental protection works; filming; freight transport facilities; helipads; kiosks; light industries; industries; liquid fuel depots; neighbourhood shops; recreation facilities (indoor); roads; transport depots; truck depots; warehouse or distribution centres.
- (3) Except as otherwise provided by this Policy, development is prohibited on land within Zone IN1 General Industrial unless it is permitted by subclause (2).

8 Zone SP2 Infrastructure

- (1) The objectives of Zone SP2 Infrastructure are as follows:
- (a) to provide for infrastructure and related uses,
 - (b) to prevent development that is not compatible with or that may detract from the provision of infrastructure.
- (2) Development for any of the following purposes is permitted with consent on land within Zone SP2 Infrastructure:
- The purpose shown on the Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.
- (3) Except as otherwise provided by this Policy, development is prohibited on land within Zone SP2 Infrastructure unless it is permitted by subclause (2).

9 Zone E2 Environmental Conservation

- (1) The objectives of Zone E2 Environmental Conservation are as follows:
- (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,

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- (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.
 - (2) Development for any of the following purposes is permitted with consent on land within Zone E2 Environmental Conservation: environmental facilities; environmental protection works; flood mitigation works; roads; waterbodies (artificial).
 - (3) Except as otherwise provided by this Policy, development is prohibited on land within Zone E2 Environmental Conservation unless it is permitted by subclause (2).

10 Kiosks, neighbourhood shops and child care centres in Zone IN1 General Industrial

- (1) The consent authority must not grant consent to development for the purpose of a kiosk on land within Zone IN1 General Industrial if the gross floor area of the kiosk exceeds 80 square metres.
- (2) The consent authority must not grant consent to development for the purpose of a neighbourhood shop on land within Zone IN1 General Industrial if the retail floor area of the neighbourhood shop exceeds 80 square metres.
- (3) The consent authority must not grant consent to development for the purpose of a child care centre on land within Zone IN1 General Industrial unless it is satisfied that the child care centre is intended to provide services to people working in the area in which the child care centre is located.

11 Public utility undertakings

Development for the purposes of public utility undertakings that is carried out on land within the Wyong Employment Zone does not require development consent.

Note. As a consequence of the removal of the requirement for development consent under Part 4 of the Act, development for the purposes of public utility undertakings is subject to the environmental assessment and approval requirements of Part 5 of the Act.

12 Subdivision—consent requirements

- (1) Land within the Wyong Employment Zone may be subdivided, but only with consent.
- (2) However, consent is not required for a subdivision for the purpose only of any one or more of the following:
 - (a) widening a public road,
 - (b) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,

- (c) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
- (d) rectifying an encroachment on a lot,
- (e) creating a public reserve,
- (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

13 Exempt development

- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
- (2) Development specified in Chapter 85 of the Wyong DCP that meets the standards for the development contained in that instrument and that complies with the requirements of this Part is exempt development.
- (3) To be exempt development:
 - (a) the development must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (b) if the development relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2–9, the building:
 - (i) must have a current fire safety certificate or fire safety statement, or
 - (ii) must be a building for which no fire safety measures are currently implemented, required or proposed, and
 - (c) the development must not:
 - (i) if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, or
 - (ii) create interference with the neighbourhood because it is noisy, causes vibrations, creates smells, fumes, smoke, vapour, steam, soot, ash, dust, waste water, grit or oil, or
 - (iii) be designated development, or
 - (iv) be development on land that comprises, or on which there is, an item of environmental heritage that is listed on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*.

14 Complying development

- (1) The objective of this clause is to identify development as complying development.
- (2) Development specified in Chapter 86 of the Wyong DCP (other than development of a kind referred to in section 76A (6) of the Act) that is carried out in compliance with:
 - (a) the applicable development standards listed in that instrument, and
 - (b) the requirements of this Part, is complying development.
- (3) To be complying development, the development must:
 - (a) be permissible, with development consent, in the zone in which it is carried out, and
 - (b) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (c) have an approval, if required by the *Local Government Act 1993*, from the Wyong Shire Council for an on-site effluent disposal system if the development is undertaken on unsewered land.

15 Additional permitted uses—Warnervale Airport

- (1) This clause applies to the land shown edged heavy black on the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)—Wyong Employment Zone—Warnervale Airport Operations Map.
- (2) Despite any other provision of this Policy, a person may, with development consent, carry out development for the purpose of an airport on land to which this clause applies.

16 Additional permitted uses—service stations, etc.

- (1) This clause applies to the following land:
 - (a) Lot 1445, DP 747246,
 - (b) Lot 67, DP 755245,
 - (c) Lots 1, 2 and 3, DP 801029.
- (2) Despite any other provision of this Policy, a person may, with development consent, carry out development for the following purposes on land to which this clause applies:
 - (a) service stations,
 - (b) vehicle body repair workshops,

- (c) vehicle sales or hire premises.

17 Design

The consent authority must not grant consent to development on land within the Wyong Employment Zone unless it is satisfied that:

- (a) the development is of a high quality design, and
- (b) a variety of materials and external finishes for the external facades are incorporated, and
- (c) high quality landscaping is provided, and
- (d) the scale and character of the development is compatible with other employment-generating development in the precinct concerned.

18 Sustainability

The consent authority must not grant consent to development on land within the Wyong Employment Zone unless it is satisfied that the development contains measures designed to reduce:

- (a) the consumption of potable water, and
- (b) greenhouse gas emissions.

19 Height of buildings

The consent authority must not grant consent to development on land within the Wyong Employment Zone unless it is satisfied that:

- (a) building heights will not adversely impact on the amenity of adjacent residential areas, and
- (b) site topography has been taken into consideration.

20 Water re-use

The consent authority must not grant consent to development on land within the Wyong Employment Zone unless it is satisfied that adequate arrangements will be made for water re-use.

21 Development involving subdivision

The consent authority must not grant consent to the carrying out of development involving the subdivision of land within the Wyong Employment Zone unless it has considered the following:

- (a) the implications of the fragmentation of large lots of land,

- (b) whether the subdivision will affect the supply of land for employment purposes,
- (c) whether the subdivision will preclude other lots of land within the Wyong Employment Zone from having reasonable access to roads and services.

22 Development control plan for Wyong Employment Zone

- (1) Despite any other provision of this Part, the consent authority must not grant consent to development on land within the Wyong Employment Zone unless a development control plan that provides for the matters specified in subclause (2) has been prepared for the Wyong Employment Zone.
- (2) The development control plan must provide for all of the following:
 - (a) a staging plan for the development,
 - (b) detailed urban design proposals for subdivision, building and landscaping, including subdivision layout, site coverage, floor space ratio, setbacks and signage,
 - (c) proposals for storm water and water quality management controls to achieve environmentally sustainable water quality and quantity, including water sensitive urban design, water re-use and storm water drainage,
 - (d) recommendations for the built form, including energy efficient design and the building materials and finishes to be used,
 - (e) measures to accommodate and ameliorate geotechnical hazards and land contamination,
 - (f) an overall flora and fauna strategy for the protection and enhancement of the natural landscape and its scenic qualities,
 - (g) proposals for public and private transport facilities, including traffic management, car parking, access and the operation of Warnervale Airport,
 - (h) proposals to conserve items and places of Aboriginal heritage significance.

23 Public utility infrastructure

- (1) The consent authority must not grant consent to development on land within the Wyong Employment Zone unless it is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements

have been made to make that infrastructure available when required.

- (2) In this clause, **public utility infrastructure** includes infrastructure for any of the following:
 - (a) the supply of water,
 - (b) the supply of electricity,
 - (c) the supply of natural gas,
 - (d) the disposal and management of sewage,
 - (e) the telecommunications network.
- (3) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure referred to in this clause.

24 Acquisition of land within Wyong Employment Zone

- (1) The objective of this clause is to identify, for the purposes of section 27 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991 (the owner-initiated acquisition provisions)*.

Note. If the landholder will suffer hardship if there is any delay in the land being acquired by the relevant authority, section 23 of the *Land Acquisition (Just Terms Compensation) Act 1991* requires the authority to acquire the land.

- (2) The authority of the State that will be the relevant authority to acquire land within the Wyong Employment Zone, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to that land shown on the Land Reservation Acquisition Map (or, if none is specified, the authority designated or determined under those provisions):

Zone	Authority of the State
Zone E2 Environmental Conservation	Wyong Shire Council
Zone SP2 Infrastructure	Wyong Shire Council

25 Exceptions to development standards

- (1) The objectives of this clause are:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

- (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (7) This clause does not allow consent to be granted for development that would contravene a development standard for complying development.

26 Development in flight path of Warnervale Airport

- (1) The objectives of this clause are:
- (a) to provide for the effective and on-going operation of Warnervale Airport, and
 - (b) to ensure that such operation is not compromised by proposed development within the flight path of Warnervale Airport.
- (2) Development consent is required to erect a building:
- (a) that is on land within the flight path of Warnervale Airport, and
 - (b) the proposed height of which would exceed the obstacle limitation surface for that land.
- (3) Any such consent must not be granted unless the consent authority is satisfied that the building will not constitute an obstruction or hazard to aircraft flying in the vicinity.

- (4) In this clause:
- flight path*** of Warnervale Airport means the land shown on the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)—Wyang Employment Zone—Warnervale Airport Flight Path Map, as in force on the date of commencement of this Part.

obstacle limitation surface for land means the obstacle limitation surface for that land shown on the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)—Wyang Employment Zone—Warnervale Airport Obstacle Limitation Surface Map, as in force on the date of commencement of this Part.

27 Development in areas subject to airport noise

- (1) The objective of this clause is to ensure that development for residential purposes, or for any other purpose involving regular human occupation, on land subject to significant exposure to aircraft noise incorporates appropriate mitigation measures.
- (2) This clause applies to land within the Wyong Employment Zone where the ANEF contour exceeds 20.
- (3) Development consent is required for the erection of a building on land to which this clause applies if it is erected for residential purposes or for any other purpose involving regular human occupation.
- (4) Any such consent must not be granted unless the consent authority is satisfied that measures to mitigate aircraft noise will be taken that accord with section 3 of AS 2021.
- (5) For the purpose of this clause, the extent of aircraft noise reduction is to be estimated in accordance with clause 3.2.2 of AS 2021.
- (6) In this clause:
ANEF means a relevant Australian Noise Exposure Forecast contour map showing the forecast of aircraft noise levels that is expected to exist in the future produced in accordance with the *Guidelines for the Production of Noise Contours for Australian Airports* published by Airservices Australia.
AS 2021 means AS 2021—2000, *Acoustics—Aircraft noise intrusion— Building siting and construction*.