



New South Wales

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 29)

under the

Environmental Planning and Assessment Act 1979

His Excellency the Lieutenant-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. (S06/00605)

KRISTINA KENEALLY, M.P.,
Minister for Planning

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 29)

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 29)*.

2 Aims of Policy

The aims of this Policy are:

- (a) to identify the land to which this Policy applies (being the Vincentia Coastal Village site) as a State significant site under *State Environmental Planning Policy (Major Projects) 2005*, and
- (b) to identify development on the site that is development to which Part 3A of the *Environmental Planning and Assessment Act 1979* applies, and
- (c) to establish appropriate zoning and other development controls for the site, and
- (d) to provide for appropriate development on the site that is consistent with the principles of ecologically sustainable development, and
- (e) to provide for appropriate development on the site to promote the social and economic welfare of the community and a better environment, and
- (f) to identify and provide land within the site for environmental protection purposes.

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 29)—Vincentia Coastal Village Site—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.

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Schedule 1 Amendment

Schedule 1 Amendment

(Clause 4)

Schedule 3 State significant sites

Insert in appropriate order in the Schedule:

Part 29 Vincentia Coastal Village site

Division 1 Preliminary

1 Land to which Part applies

This Part applies to the land shown edged heavy black on the Land Application Map, referred to in this Part as the *Vincentia Coastal Village site*.

2 Interpretation

(1) In this Part:

Additional Permitted Uses Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 29)—Vincentia Coastal Village Site—Additional Permitted Uses Map.

Building Height Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 29)—Vincentia Coastal Village Site—Building Height Map.

Council means the Shoalhaven City Council.

Exempt and Complying Development Controls—Vincentia Coastal Village means the document of that name as approved by the Director-General on 8 July 2008 and held at the office of the Council.

heritage item means:

- (a) an archaeological site, or
- (b) a place of Aboriginal heritage significance, or
- (c) a building, work, relic or tree that is situated within a site referred to in paragraph (a) or a place referred to in paragraph (b).

Land Application Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 29)—Vincentia Coastal Village Site—Land Application Map.

Land Reservation Acquisition Map means the State Environmental Planning Policy (Major Projects) 2005

(Amendment No 29)—Vincentia Coastal Village Site—Land Reservation Acquisition Map.

Land Zoning Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 29)—Vincentia Coastal Village Site—Land Zoning Map.

- (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* unless it is otherwise defined in this Part or is referred to in the definition of **heritage item** in this Part.

3 Consent authority

The consent authority for development on land within the Vincentia Coastal Village site, other than development that is a project to which Part 3A of the Act applies, is the 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.
- (4) For the purposes of this Part, a map may be in, and may be kept and made available in, electronic or paper form, or both.

5 Relationship with other environmental planning instruments

The only environmental planning instruments that apply, according to their terms, to land within the Vincentia Coastal Village site are this Policy and all other State environmental planning policies except for the following:

- (a) *State Environmental Planning Policy No 1—Development Standards*,

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- (b) *State Environmental Planning Policy No 71—Coastal Protection.*

Division 2 Part 3A projects

6 Part 3A projects

- (1) Such development within the Vincentia Coastal Village site as has a capital investment value of more than \$5 million, other than development for the purposes of a public utility undertaking.
- (2) Subdivision of land within the Vincentia Coastal Village site, other than a strata title subdivision, a community title subdivision, or a subdivision for any one or more of the following purposes:
 - (a) widening a public road,
 - (b) a minor realignment of boundaries that does not create additional lots or the opportunity for additional lots,
 - (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.

Division 3 Provisions applying to development within Vincentia Coastal Village site

7 Application of Division

This Division applies with respect to development within the Vincentia Coastal Village site and so applies whether or not the development is a project to which Part 3A of the Act applies.

8 Land use zones

- (1) For the purposes of this Part, land within the Vincentia Coastal Village site is in a zone as follows if the land is shown on the Land Zoning Map as being within that zone:
 - (a) Zone R2 Low Density Residential,
 - (b) Zone B2 Local Centre,
 - (c) Zone RE1 Public Recreation,

- (d) 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.

9 Zone R2 Low Density Residential

- (1) The objectives of Zone R2 Low Density Residential are as follows:
 - (a) to provide for the housing needs of the community within a low density residential environment,
 - (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents,
 - (c) to incorporate contemporary design principles in the design of new buildings and the relationship of those buildings to the public domain and the natural environment,
 - (d) to promote energy efficiency and other sustainable development practices,
 - (e) to minimise the impact on residential development from non-residential development (such as impacts relating to operating hours, noise, loss of privacy and vehicular and pedestrian traffic).
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R2 Low Density Residential:
environmental protection works; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R2 Low Density Residential:
bed and breakfast accommodation; boat launching ramps; building identification signs; car parks; child care centres; drainage; dual occupancies; dwelling houses; earthworks; educational establishments; filming; flood mitigation works; group homes; health consulting rooms; home-based child care; home businesses; hospitals; information and education facilities; multi dwelling housing; neighbourhood shops; places of public worship; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); residential care facilities; roads; schools; seniors housing; swimming pools; veterinary hospitals.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R2 Low Density Residential unless it is permitted by subclause (2) or (3).

10 Zone B2 Local Centre

- (1) The objectives of Zone B2 Local Centre are as follows:
- (a) to provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area,
 - (b) to encourage employment opportunities in accessible locations,
 - (c) to maximise public transport patronage and encourage walking and cycling,
 - (d) to incorporate contemporary design principles in the design of new buildings and the relationship of those buildings to the public domain and the natural environment,
 - (e) to promote energy efficiency and other sustainable development practices,
 - (f) to minimise the impact on residential development from non-residential development (such as impacts relating to operating hours, noise, loss of privacy and vehicular and pedestrian traffic).
- (2) Development for any of the following purposes is permitted without development consent on land within Zone B2 Local Centre:
- environmental protection works.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone B2 Local Centre:
- amusement centres; business premises; car parks; child care centres; community facilities; drainage; earthworks; educational establishments; entertainment facilities; environmental facilities; filming; flood mitigation works; food and drink premises; function centres; funeral chapels; funeral homes; health consulting rooms; hospitals; information and education facilities; kiosks; landscape and garden supplies; markets; medical centres; mixed use development; neighbourhood shops; office premises; passenger transport facilities; places of public worship; public administration buildings; pubs; recreation areas; recreation facilities (indoor); recreation facilities (major); recreation facilities (outdoor); registered clubs; restaurants; retail premises; roads; schools; service stations; shop top housing; signage; take

away food and drink premises; temporary structures; tourist and visitor accommodation; veterinary hospitals.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone B2 Local Centre unless it is permitted by subclause (2) or (3).

11 Zone RE1 Public Recreation

- (1) The objectives of Zone RE1 Public Recreation are as follows:
- (a) to enable land to be used for public open space or recreational purposes,
 - (b) to provide a range of recreational settings and activities and compatible land uses,
 - (c) to protect and enhance the natural environment for recreational purposes,
 - (d) to enable development for the enjoyment of the community,
 - (e) to ensure the vitality and safety of the community and public domain,
 - (f) to promote landscaped areas to enhance the amenity of the area.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone RE1 Public Recreation:
- business identification signs; environmental protection works.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone RE1 Public Recreation:
- boat launching ramps; boat repair facilities; boat sheds; building identification signs; car parks; caravan parks; cemeteries; child care centres; community facilities; drainage; earthworks; environmental facilities; filming; flood mitigation works; helipads; information and education facilities; kiosks; markets; public administration buildings; recreation areas; recreation facilities (indoor); recreation facilities (major); recreation facilities (outdoor); registered clubs; restaurants; roads; take away food or drink premises; water recreation structures.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone RE1 Public Recreation unless it is permitted by subclause (2) or (3).

12 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,
 - (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 without development consent on land within Zone E2 Environmental Conservation:
environmental protection works.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E2 Environmental Conservation:
drainage; environmental facilities, filming; flood mitigation works; recreation areas; roads.
- (4) Development for any of the following purposes is prohibited on land within Zone E2 Environmental Conservation:
business premises; hotel or motel accommodation; industries; multi dwelling housing; recreation facilities (major); residential flat buildings; retail premises; seniors housing; service stations; warehouse or distribution centres; except as otherwise provided by this Part, any other development not specified in subclause (2) or (3).

13 Additional permitted uses for particular land

- (1) Development for the purposes of bulky goods premises and timber and building supplies is permitted with consent on land in Zone B2 Local Centre and edged heavy black and hatched on the Additional Permitted Uses Map.
- (2) This clause has effect despite anything to the contrary in any other provision of this Part.

14 Subdivision consent requirements

- (1) A subdivision of land within the Vincentia Coastal Village site, including a subdivision under the *Strata Schemes (Freehold Development) Act 1973*, the *Strata Schemes (Leasehold Development) Act 1986*, or the *Community Land Development Act 1989*, may be carried out only with development consent.

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- (2) However, development 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 lots,
 - (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.

15 Exempt development

- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
- (2) Development specified in Exempt and Complying Development Controls—Vincentia Coastal Village that meets the standards for the development contained in that document and that complies with the requirements of this Part is exempt development.
- (3) To be exempt development, the development:
 - (a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and
 - (c) must not be designated development, and
 - (d) must not be carried out on land that comprises, or on which there is, an item 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*, and
 - (e) must not be carried out in an environmentally sensitive area for exempt or complying development (as defined in clause 17).
- (4) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2–9 is exempt development only if:
 - (a) the building has a current fire safety certificate or fire safety statement, or

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- (b) no fire safety measures are currently implemented, required or proposed for the building.

16 Complying development

- (1) The objective of this clause is to identify development as complying development.
- (2) Development specified in Exempt and Complying Development Controls—*Vincentia Coastal Village* that meets the standards for the development contained in that document and that is carried out in compliance with:
 - (a) the development standards specified in relation to that development, and
 - (b) the requirements of this Part, is complying development.
- (3) To be complying development, the development must:
 - (a) be permissible, with 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 Council for an on-site effluent disposal system if the development is undertaken on unsewered land.
- (4) A complying development certificate for development specified as complying development is subject to the conditions (if any) set out in respect of that development in Exempt and Complying Development Controls—*Vincentia Coastal Village*.

17 Environmentally sensitive areas excluded

- (1) Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.
- (2) For the purposes of this clause:
environmentally sensitive area for exempt or complying development means any of the following:
 - (a) the coastal waters of the State,
 - (b) a coastal lake,
 - (c) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies,

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- (d) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*,
 - (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,
 - (f) land within 100 metres of land to which paragraph (c), (d) or (e) applies,
 - (g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,
 - (h) land reserved as a state conservation area under the *National Parks and Wildlife Act 1974*,
 - (i) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
 - (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

18 Height of buildings

- (1) The objectives of this clause are as follows:
 - (a) to ensure the scale and bulk of future development is compatible with the existing urban form and surrounding natural coastal bushland,
 - (b) to ensure that new buildings do not unreasonably affect the amenity of the environment,
 - (c) to maintain solar access to public reserves, roads and buildings on the site,
 - (d) to promote development that conforms to and reflects the natural land forms, by stepping development on sloping land to follow the natural gradient.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Building Height Map.

19 Gross floor area

The total gross floor area of all buildings on land in Zone B2 Local Centre within the Vincentia Coastal Village site must not exceed 32,000 square metres.

20 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

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- (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 any of the following:
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated,
 - (c) clauses 18, 19 or 23.

21 Relevant acquisition authority

- (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, 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 the land shown on the Land Reservation Acquisition Map (or, if an authority of the State is not specified in relation to land required to be so acquired, the authority designated or determined under those provisions).

Type of land shown on Map

Authority of the State

Zone RE1 Public Recreation and marked
"Local open space" Council

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- (3) Development on land acquired by an authority of the State under the owner-initiated acquisition provisions may, before it is used for the purpose for which it is reserved, be carried out, with development consent, for any purpose.

Note. If land, other than land specified in the table to subclause (2), is required to be acquired under the owner-initiated acquisition provisions, the Minister for Planning is required to take action to enable the designation of the acquiring authority under this Part. Pending the designation of the acquiring authority for that land, the acquiring authority is to be the authority determined by order of the Minister for Planning (see section 21 of the *Land Acquisition (Just Terms Compensation) Act 1991*).

22 Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land within the Vincentia Coastal Village site to be carried out in accordance with this Policy or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) This clause does not apply:
- (a) to a covenant imposed by the Council or that the Council requires to be imposed, or
 - (b) to any prescribed instrument within the meaning of section 183A of the *Crown Lands Act 1989*, or
 - (c) to any conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
 - (d) to any Trust agreement within the meaning of the *Nature Conservation Trust Act 2001*, or
 - (e) to any property vegetation plan within the meaning of the *Native Vegetation Act 2003*, or
 - (f) to any biobanking agreement within the meaning of Part 7A of the *Threatened Species Conservation Act 1995*, or
 - (g) to any planning agreement within the meaning of Division 6 of Part 4 of the Act.
- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
- (4) Pursuant to section 28 of the Act, before the making of this clause, the Governor approved of subclauses (1)–(3).

23 Controls relating to miscellaneous permissible uses

(1) Bed and breakfast accommodation

If development for the purposes of bed and breakfast accommodation is permitted under this Part, the accommodation that is provided to guests must consist of no more than 3 bedrooms.

(2) Home businesses

If development for the purposes of a home business is permitted under this Part, the carrying on of the business must not involve the use of more than 60 square metres of floor area.

(3) Kiosks

If development for the purposes of a kiosk is permitted under this Part, the gross floor area must not exceed 80 square metres.

(4) Neighbourhood shops

If development for the purposes of a neighbourhood shop is permitted under this Part, the retail floor area must not exceed 100 square metres.

24 Development within the coastal zone

(1) The objectives of this clause are as follows:

- (a)** to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,
- (b)** to implement the principles in the NSW Coastal Policy, and in particular to:
 - (i)** protect, enhance, maintain and restore the coastal environment, its associated ecosystems, ecological processes and biological diversity and its water quality, and
 - (ii)** protect and preserve the natural, cultural, recreational and economic attributes of the NSW coast, and
 - (iii)** provide opportunities for pedestrian public access to and along the coastal foreshore, and
 - (iv)** recognise and accommodate coastal processes and climate change, and
 - (v)** protect amenity and scenic quality, and

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- (vi) protect and preserve rock platforms, beach environments and beach amenity, and
 - (vii) protect and preserve native coastal vegetation, and
 - (viii) protect and preserve the marine environment, and
 - (ix) ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and
 - (x) ensure that decisions in relation to new development consider the broader and cumulative impacts on the catchment, and
 - (xi) protect Aboriginal cultural places, values and customs, and
 - (xii) protect and preserve items of heritage, archaeological or historical significance.
- (2) Consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered:
- (a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:
 - (i) maintaining existing public access and, where possible, improving that access, and
 - (ii) identifying opportunities for new public access, and
 - (b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:
 - (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and
 - (ii) the location, and
 - (iii) the bulk, scale, size and overall built form design of any building or work involved, and
 - (c) the impact of the proposed development on the amenity of the coastal foreshore including:
 - (i) any significant overshadowing of the coastal foreshore, and
 - (ii) any loss of views from a public place to the coastal foreshore, and

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- (d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and
 - (e) how biodiversity and ecosystems, including:
 - (i) native coastal vegetation and existing wildlife corridors, and
 - (ii) rock platforms, and
 - (iii) water quality of coastal waterbodies, and
 - (iv) native fauna and native flora, and their habitats, can be conserved, and
 - (f) the effect of coastal processes and coastal hazards and potential impacts, including sea level rise:
 - (i) on the proposed development, and
 - (ii) arising from the proposed development, and
 - (g) the cumulative impacts of the proposed development and other development on the coastal catchment.
- (3) Consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:
- (a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and
 - (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and
 - (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform.

25 Architectural roof features

- (1) The objectives of this clause are:
 - (a) to ensure that architectural roof features to which this clause applies are decorative elements only and are consistent in form and scale with the surrounding natural coastal bushland, and
 - (b) to ensure that the majority of the roof features are contained within the prescribed building height.

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- (2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 18 may be carried out, but only with consent.
- (3) Development consent must not be granted to any such development unless the consent authority is satisfied that:
 - (a) the architectural roof feature:
 - (i) comprises a decorative element on the uppermost portion of a building, and
 - (ii) is not an advertising structure, and
 - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
 - (iv) will cause minimal overshadowing, and
 - (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

26 Preservation of trees or vegetation

- (1) The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation.
- (2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.

Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, or location or in some other manner.
- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:
 - (a) development consent, or
 - (b) a permit granted by the Council.
- (4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.
- (5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.

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- (6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.
- (7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:
- (a) that is or forms part of a heritage item, or
 - (b) that is within a heritage conservation area.
- Note.** As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 27 will be applicable to any such consent.
- (8) This clause does not apply to or in respect of:
- (a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003* or that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or
 - (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause, or
 - (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or
 - (d) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying Act 2002*, or
 - (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

27 Heritage conservation

- (1) A person must not, in respect of a building, work, relic, tree, site or place that is a heritage item:
- (a) demolish, dismantle, move or alter the building, work, relic, tree, site or place, or
 - (b) damage or remove the relic, or
 - (c) excavate land for the purpose of discovering, exposing or moving the relic, or
 - (d) damage or despoil the tree, site or place, or

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- (e) erect a building on, or subdivide, land on which the building, work or relic is situated or that comprises the site or place, or
 - (f) damage any tree or land on which the building, work or relic is situated or on the land which comprises the site or place, or
 - (g) make structural changes to the interior of the building or work,
- except with the consent of the consent authority.
- (2) However, consent under this clause is not required if the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
- (a) is of a minor nature, or is for the maintenance of the heritage item, and
 - (b) would not adversely affect the significance of the heritage item.

28 Bush fire hazard reduction

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without consent.

Note. The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

29 Infrastructure development and use of existing buildings of the Crown

- (1) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out without consent under the *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

Note. As a consequence of the removal of the requirement for development consent under Part 4 of the Act, development by, or on behalf of, a public authority is subject to the environmental assessment and approval requirements of Part 5 of the Act or, if it is applicable, Part 3A of the Act.

BY AUTHORITY
