



New South Wales

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 34)

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. (S08/00923-1:MA)

KRISTINA KENEALLY, M.P.,
Minister for Planning

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 34)

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 34)*.

2 Aims of Policy

The aims of this Policy are:

- (a) to identify the land to which the Policy applies (being the Doonside Residential Precinct site) as a State significant site under the *State Environmental Planning Policy (Major Projects) 2005*, and
- (b) to establish appropriate zoning and other development controls for that land, and
- (c) to amend *Sydney Regional Environmental Plan No 31—Regional Parklands* to exclude its operation with respect to that land, and
- (d) to provide for a variety of housing types, and
- (e) to provide for a high standard of urban and architectural design, and
- (f) to identify high quality open space land within the site for recreational purposes and community uses, and
- (g) to protect the Bungarribee heritage site.

3 Land to which Policy applies

This Policy applies to certain land in the local government area of Blacktown identified on the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 34)—Doonside Residential Precinct Site—Land Application Map held at the office of Blacktown Council.

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.

**5 Amendment of Sydney Regional Environmental Plan No 31—Regional
Parklands**

Sydney Regional Environmental Plan No 31—Regional Parklands is
amended as set out in Schedule 2.

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Schedule 1 Amendment of State Environmental Planning Policy (Major Projects) 2005

Schedule 1 Amendment of State Environmental Planning Policy (Major Projects) 2005

(Clause 4)

Schedule 3 State significant sites

Insert at the end of the Schedule (before the maps) with appropriate Part numbering:

Part Doonside Residential Precinct

Division 1 Preliminary

1 Land to which Part applies

This Part applies to the land identified on the Land Application Map, referred to in this Part as the *Doonside Residential Precinct site*.

2 Interpretation

(1) In this Part:

Council means Blacktown City Council.

Heritage Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 34)—Doonside Residential Precinct Site—Heritage Map.

Land Application Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 34)—Doonside Residential Precinct Site—Land Application Map.

Land Zoning Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 34)—Doonside Residential Precinct 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.

3 Consent authority

The consent authority for development on land within the Doonside Residential Precinct 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 Policy 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 form 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 Doonside Residential Precinct site are this Policy and all other State Environmental Planning Policies except *State Environmental Planning Policy No 1—Development Standards*.

Division 2 Provisions relating to development within Doonside Residential Precinct site**6 Application of Division**

- (1) This Division applies to development on land in the Doonside Residential Precinct site, except as provided by subclause (2).
- (2) Clauses 9–13, 15, 17–21 do not apply to development within the Doonside Residential Precinct site to the extent that it is a project to which Part 3A of the Act applies.

7 Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land within the Doonside Residential Precinct site to be carried out in accordance with this Policy or with a development 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.

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- (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*.
- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
- (4) Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).

8 Land use zones

For the purposes of this Part, land within the Doonside Residential Precinct site is in a zone as follows if the land is shown on the Land Zoning Map as being within that zone:

- (a) Zone R1 General Residential,
- (b) Zone SP2 Infrastructure,
- (c) Zone RE1 Public Recreation,
- (d) Zone E3 Environmental Management.

9 Objectives of the land use zones to be taken into account

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.

10 Zone R1 General Residential

- (1) The objectives of Zone R1 General Residential are as follows:
 - (a) to provide for the housing needs of the community,
 - (b) to provide for a variety of housing types and densities,
 - (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents,
 - (d) to protect the heritage significance of the site,

- (e) to protect and enhance the natural environment for recreational purposes,
 - (f) to promote ecologically sustainable development.
- (2) Development for any of the following purposes is permitted only with development consent on land within Zone R1 General Residential:
- attached dwellings; boarding houses; car parks; child care centres; community facilities; dwelling houses; environmental protection works; group homes; hostels; multi dwelling housing; neighbourhood shops; places of public worship; recreation areas; residential care facilities; residential flat buildings; roads; semi-detached dwellings; seniors housing; shop top housing.
- (3) Except as otherwise provided by this Policy, development is prohibited on land within Zone R1 General Residential unless it is permitted by subclause (2).

11 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 only with development consent on land within Zone SP2 Infrastructure:
- the purpose shown on the Land 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).

12 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 enhance the natural environment for recreation purposes.

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- (2) Development for any of the following purposes is permitted only with development consent on land within Zone RE1 Public Recreation:

community facilities; environmental facilities; environmental protection works; kiosks; recreation areas; roads.

- (3) Except as otherwise provided by this Policy, development is prohibited on land within Zone RE1 Public Recreation unless it is permitted by subclause (2).

13 Zone E3 Environmental Management

- (1) The objectives of Zone E3 Environmental Management are as follows:

(a) to protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values,

(b) to provide for a limited range of development that does not have an adverse effect on those values.

- (2) Development for any of the following purposes is permitted only with development consent on land within Zone E3 Environmental Management:

community facilities; dwelling houses; environmental protection works; kiosks; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); roads.

- (3) Except as otherwise provided by this Policy, development is not permitted on land within Zone E3 Environmental Management unless it is permitted by subclause (2).

14 Prohibited development

Development, other than development that is permitted with or without consent on land within a zone, is prohibited on land within that zone.

15 Subdivision—consent requirements

- (1) Land within the Doonside Residential Precinct site may be subdivided, but only with development consent.

- (2) However, development consent is not required for a subdivision for the purpose only of one or more of the following:

(a) widening a public road,

(b) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,

- (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional buildings,
- (d) a consolidation of lots that does not create additional lots or the opportunity for additional buildings,
- (e) rectifying an encroachment on a lot,
- (f) creating a public reserve,
- (g) 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.

16 Exceptions to development standards—Part 3A projects

- (1) A development standard imposed by this or any other environmental planning instrument on development that is part of a project to which Part 3A of the Act applies, and is within the Doonside Residential Precinct site, does not apply to that development if the Director-General is satisfied, and issues a certificate to the effect, that:
 - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) there are sufficient environmental planning grounds to justify exempting development by allowing flexibility in particular circumstances.
- (2) In deciding whether to issue a certificate, the Director-General must consider:
 - (a) whether contravention of the development standard gives rise to 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.

17 Exceptions to development standards—other development

- (1) This clause applies to development, other than development that is part of a project to which Part 3A of the Act applies.

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Schedule 1 Amendment of State Environmental Planning Policy (Major Projects) 2005

- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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 (4), 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.
- (6) 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.
- (7) Consent must not be granted under this clause for a subdivision of land in Zone E3 if:
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (8) 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 (4).
- (9) 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.

18 Exempt and complying development

Development within the Doonside Residential Precinct site that satisfies the requirements for exempt development or complying development specified in *Blacktown Local Environmental Plan 1988* is exempt development or complying development, as appropriate.

19 Heritage conservation

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

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- (d) damage or despoil the tree or place, or
 - (e) erect a building on, or subdivide, land on which the building, work or relic is situated or that comprises the place, or
 - (f) damage any tree or land on which the building, work or relic is situated on or on the land which comprises the place, or
 - (g) make structural changes to the interior of the building or work,
- except with the consent of the consent authority.
- (2) The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is located, even though development for that purpose would otherwise not be allowed by this Part, if the consent authority is satisfied that:
- (a) the conservation of the heritage item is facilitated by the granting of consent, and
 - (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and
 - (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and
 - (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
 - (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.
- (3) Consent is not required under this clause 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.

- (4) In this clause, *heritage item* means an item of heritage that is:
- (a) shown on the Heritage Map, or
 - (b) subject to an interim heritage order under the *Heritage Act 1977*, or
 - (c) listed on the State Heritage Register under that Act.

20 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.

21 Infrastructure development and the 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 *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.

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Schedule 2

Amendment of Sydney Regional Environmental Plan No 31—Regional Parklands

**Schedule 2 Amendment of Sydney Regional
Environmental Plan No 31—Regional
Parklands**

(Clause 5)

[1] Clause 2 Land to which plan applies

Insert in appropriate order in clause 2 (1A):

State Environmental Planning Policy (Major Projects) 2005
(Amendment No 34)—Doonside Residential Precinct

[2] Dictionary

Insert in appropriate order in the definition of *the map*:

State Environmental Planning Policy (Major Projects) 2005
(Amendment No 34)—Doonside Residential Precinct

BY AUTHORITY
