



New South Wales

State Environmental Planning Policy (Major Projects) Amendment (Bloomfield) 2009

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. (MA-TBC)

KRISTINA KENEALLY, MP
Minister for Planning

State Environmental Planning Policy (Major Projects) Amendment (Bloomfield) 2009

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Major Projects) Amendment (Bloomfield) 2009*.

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 establish appropriate zoning and other development controls for that land, and
- (c) to provide for appropriate development of that land that satisfies the principles of ecologically sustainable development.

3 Land to which Policy applies

This Policy applies to certain land in the local government area of Orange City identified on State Environmental Planning Policy (Major Projects) Amendment (Bloomfield) 2009 Land Application Map held in the head office of the Department.

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Schedule 3 State significant sites

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

Part Bloomfield Site

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 *Bloomfield site*.

2 Interpretation

(1) In this Part:

consent authority means the council.

council means the Orange City Council.

Floor Space Ratio Map means the State Environmental Planning Policy (Major Projects) Amendment (Bloomfield) 2009 Floor Space Ratio Map.

Height of Buildings Map means the State Environmental Planning Policy (Major Projects) Amendment (Bloomfield) 2009 Height of Buildings Map.

Land Application Map means the State Environmental Planning Policy (Major Projects) Amendment (Bloomfield) 2009 Land Application Map.

Land Zoning Map means the State Environmental Planning Policy (Major Projects) Amendment (Bloomfield) 2009 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 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

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- (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.

4 Relationship with other environmental planning instruments

The only environmental planning instruments that apply, according to their terms, to or in respect of development in the Bloomfield site are as follows:

- (a) this Policy,
- (b) all other State environmental planning policies otherwise applicable to the land, except *State Environmental Planning Policy No 1—Development Standards*.

Division 2 Provisions relating to development in Bloomfield site

5 Application of Division

- (1) This Division applies to development on land in the Bloomfield site, except as provided by subclause (2).
- (2) Clauses 7–10, 12–16 and 18–21 do not apply to development in the Bloomfield site to the extent that it is a project to which Part 3A of the Act applies.

6 Land use zones

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

- (a) Zone R2 Low Density Residential,
- (b) Zone B4 Mixed Use,
- (c) Zone SP2 Infrastructure.

7 Objectives of 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 in the zone.

8 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 in 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.
- (2) Development for any of the following purposes is permitted without consent on land in 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 in Zone R2 Low Density Residential:
attached dwellings; dwelling houses; exhibition villages; group homes; recreation facilities (outdoor); roads; semi-detached dwellings; seniors housing.
- (4) Except as otherwise provided by this Policy, development is prohibited on land in Zone R2 Low Density Residential unless it is permitted by subclause (2) or (3).

9 Zone B4 Mixed Use

- (1) The objectives of Zone B4 Mixed Use are as follows:
 - (a) to provide a mixture of compatible land uses,
 - (b) to integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- (2) Development for any of the following purposes is permitted without consent on land in Zone B4 Mixed Use:
nil.
- (3) Development for any of the following purposes is permitted only with development consent on land in Zone B4 Mixed Use:
attached dwellings; boarding houses; business premises; child care centres; community facilities; dwelling houses; educational

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establishments; entertainment facilities; function centres; hotel or motel accommodation; information and education facilities; multi dwelling housing; office premises; passenger transport facilities; recreation facilities (indoor); registered clubs; retail premises; roads; shop top housing.

- (4) Except as otherwise provided by this Policy, development is prohibited on land in Zone B4 Mixed Use unless it is permitted by subclause (2) or (3).

10 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 without consent on land in Zone SP2 Infrastructure:
- roads.
- (3) Development for any of the following purposes is permitted only with development consent on land in 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.
- (4) Except as otherwise provided by this Policy, development is prohibited on land in Zone SP2 Infrastructure unless it is permitted by subclause (2) or (3).

11 Prohibited development

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

12 Subdivision—consent requirements

- (1) Land in the Bloomfield site may be subdivided, but only with development consent.
- (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) 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.

13 Minimum subdivision lot size

- (1) The objectives of this clause are as follows:
 - (a) to provide a minimum lot size for the subdivision of land,
 - (b) to ensure that lot sizes are able to accommodate appropriate development and are consistent with relevant development controls for the subdivision of land,
 - (c) to minimise any likely impact of subdivision and development on the amenity of neighbouring properties.
- (2) This clause applies to a subdivision of any land in the Bloomfield site that requires development consent and that is carried out after the commencement of this Part.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than 450m².
- (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

14 Height of buildings

- (1) The objectives of this clause are as follows:
 - (a) to establish a maximum height limit in which buildings can be designed,
 - (b) to ensure the height of buildings complements the streetscape and character of the area in which the buildings are located,
 - (c) to ensure the height of buildings protects the amenity of neighbouring properties in terms of visual bulk, access to sunlight, privacy and views.

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- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

15 Floor space ratio

- (1) The objectives of this clause are as follows:
 - (a) to control building density and bulk in relation to sites in order to achieve the desired future character of the area in which buildings are located,
 - (b) to establish standards for the maximum development density and intensity of land use, taking into account the availability of infrastructure and the generation of vehicle and pedestrian traffic,
 - (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties.
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

16 Retail premises in Zone B4

- (1) The objectives of this clause are as follows:
 - (a) to provide opportunities for retailing in Zone B4 Mixed Use that will not adversely affect the economic sustainability of Orange CBD,
 - (b) to set a maximum retail floor space for development in Area 2 shown on the Floor Space Ratio Map,
 - (c) to prohibit retail premises in Area 1 shown on the Floor Space Ratio Map.
- (2) Despite clauses 9 and 15:
 - (a) retail floor space for all development on land in Area 2 (Zone B4 Mixed Use) shown on the Floor Space Ratio Map must not exceed 1,500m², and
 - (b) development for retail premises is prohibited in Area 1 (Zone B4 Mixed Use) shown on the Floor Space Ratio Map.

17 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 in the Bloomfield 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 the development from that development standard.
- (2) In deciding whether to issue a certificate, 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.

18 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.
- (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:

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- (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 in 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
 - (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) 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).
- (8) This clause does not allow consent to be granted for development that would contravene 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.

19 Public utility infrastructure

- (1) Development consent must not be granted for development on land in the Bloomfield site unless the consent authority 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.
- (3) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.

20 Infrastructure development and the use of existing buildings of the Crown

- (1) This Division 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 with or without consent or that is exempt development under *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Division does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

21 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.

22 Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land in the Bloomfield 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*, 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) Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).