



New South Wales

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 36)

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. (s08/01334/PC-1)

KRISTINA KENEALLY, MP
Minister for Planning

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 36)

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 36)*.

2 Aims of Policy

The aims of this Policy are:

- (a) to identify the land to which this Policy applies (being the Potts Hill Reservoirs Site) as a state significant site under *State Environmental Planning Policy (Major Projects) 2005*, and
- (b) to establish appropriate zoning and other development controls for the site.

3 Land to which Policy applies

This Policy applies to the land identified on the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 36)—Potts Hill Reservoirs Site—Land Application Map held in the head office of the Department.

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

Schedule 3 State significant sites

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

Part Potts Hill Reservoirs site

Division 1 Preliminary

1 Land to which this Part applies

This Part applies to the land identified on the Land Application Map, referred to in this Part as the *Potts Hill Reservoirs site*.

2 Interpretation

(1) In this Part:

Council means the Council of the City of Bankstown.

Floor Space Ratio Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 36)—Potts Hill Reservoirs site—Floor Space Ratio Map.

Height of Buildings Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 36)—Potts Hill Reservoirs site—Height of Buildings Map.

Land Application Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 36)—Potts Hill Reservoirs site—Land Application Map.

Land Zoning Map means the State Environmental Planning Policy (Major Projects) 2005 (Amendment No 36)—Potts Hill Reservoirs 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 in the Potts Hill Reservoirs site, other than development that is a project to which Part 3A of the Act applies, is the Council.

2009 No 161

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 36)

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

4 Relationship with other environmental planning instruments

The only environmental planning instruments that apply, according to their terms, to land within the Potts Hill Reservoirs site are this Policy and all other State environmental planning policies, except *State Environmental Planning Policy No 1—Development standards*.

5 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 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.

Division 2 Provisions applying to development within Potts Hill Reservoirs site

6 Application of Division

- (1) This Division applies to development on land in the Potts Hill Reservoirs site, except as provided by subclause (2).
- (2) Clauses 8–12, 17 and 18 do not apply to development within the Potts Hill Reservoirs site to the extent that it is a project to which Part 3A of the Act applies.

7 Land use zones

For the purposes of this Part, land within the Potts Hill Reservoirs 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 R3 Medium Density Residential,

- (c) Zone B7 Business Park,
- (d) Zone RE1 Public Recreation.

8 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 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, and
 - (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 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:
attached dwellings; boarding houses; child care centres; community facilities; dual occupancies; dwelling houses; environmental facilities; group homes; home-based child care; home businesses; kiosks; neighbourhood shops; places of public worship; recreation areas; roads; seniors housing.
- (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 R3 Medium Density Residential

- (1) The objectives of Zone R3 Medium Density Residential are as follows:
 - (a) to provide for the housing needs of the community within a medium density residential environment,
 - (b) to provide a variety of housing types within a medium density residential environment,
 - (c) to enable other land uses that provide facilities and services to meet the day to day needs of residents.

2009 No 161

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 36)

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

- (2) Development for any of the following purposes is permitted without development consent on land within Zone R3 Medium 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 R3 Medium Density Residential:
attached dwellings; boarding houses; child care centres; community facilities; dual occupancies; dwelling houses; environmental facilities; group homes; home-based child care; home businesses; kiosks; multi dwelling housing; neighbourhood shops; places of public worship; recreation areas; residential flat buildings; roads; seniors housing.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R3 Medium Density Residential unless it is permitted by subclause (2) or (3).

11 Zone B7 Business Park

- (1) The objectives of Zone B7 Business Park are as follows:
 - (a) to provide a range of office and light industrial uses,
 - (b) to encourage employment opportunities,
 - (c) to enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- (2) Development for the following purpose is permitted without development consent on land within Zone B7 Business Park:
nil.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone B7 Business Park:
child care centres; helipads; light industries; neighbourhood shops; office premises; passenger transport facilities; roads; warehouse or distribution centres.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone B7 Business Park unless it is permitted by subclause (2) or (3).

12 Zone RE1 Public Recreation

- (1) The objectives of Zone RE1 Public Recreation are as follows:
 - (a) to enable land to be used for 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.
- (2) Development for the purpose of environmental protection works is permitted without development consent on land within Zone RE1 Public Recreation.
- (3) Development for the following purposes is permitted only with development consent on land within Zone RE1 Public Recreation:
environmental facilities; kiosks; recreation areas; roads.
- (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).

13 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.

14 Height of buildings

The height of a building on land within the Potts Hill Reservoirs site is not to exceed the maximum height shown for the land on the Height of Buildings Map.

15 Floor space ratio

The floor space ratio of a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

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 Potts Hill Reservoirs site, does not apply to that development if the Director-General is satisfied, and issues a certificate to the effect, that:

2009 No 161

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 36)

Schedule 1

Amendment of State Environmental Planning Policy (Major Projects) 2005

- (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.

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.
- (2) The objectives of this clause are:
 - (a) to provide an appropriate degree of flexibility in applying certain 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) 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 standards 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
 - (b) the public benefits 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 for complying development.

18 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 and 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 the *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.

2009 No 161

State Environmental Planning Policy (Major Projects) 2005 (Amendment No 36)

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

19 Controls relating to miscellaneous permissible uses

- (1) This clause applies to development only if it is permitted under this Part or approved under Part 3A of the Act.
- (2) **Home businesses**
Development for the purposes of a home business must not involve the use of more than 30 square metres of floor area.
- (3) **Kiosks**
Development for the purposes of a kiosk must not involve the use of more than 10 square metres of gross floor area.
- (4) **Neighbourhood shops**
Development for the purpose of a neighbourhood shop must not involve the use of more than 80 square metres for the retail floor area of the shop.