



New South Wales

State Environmental Planning Policy (Western Sydney Employment Area) 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. (S06/00218-2)

KRISTINA KENEALLY, MP
Minister for Planning

2009 No 413

State Environmental Planning Policy (Western Sydney Employment Area) 2009

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State Environmental Planning Policy (Western Sydney Employment Area) 2009

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Environmental Planning and Assessment Act 1979

Part 1 Preliminary

1 Name of Policy

This Policy is *State Environmental Planning Policy (Western Sydney Employment Area) 2009*.

2 Commencement

This Policy commences on the day on which it is published on the NSW legislation website.

3 Aims of Policy

- (1) This Policy aims to protect and enhance the land to which this Policy applies (the *Western Sydney Employment Area*) for employment purposes.
- (2) The particular aims of this Policy are as follows:
 - (a) to promote economic development and the creation of employment in the Western Sydney Employment Area by providing for development including major warehousing, distribution, freight transport, industrial, high technology and research facilities,
 - (b) to provide for the co-ordinated planning and development of land in the Western Sydney Employment Area,
 - (c) to rezone land for employment or environmental conservation purposes,
 - (d) to improve certainty and regulatory efficiency by providing a consistent planning regime for future development and infrastructure provision in the Western Sydney Employment Area,
 - (e) to ensure that development occurs in a logical, environmentally sensitive and cost-effective manner and only after a development control plan (including specific development controls) has been prepared for the land concerned,

- (f) to conserve and rehabilitate areas that have a high biodiversity or heritage or cultural value, in particular areas of remnant vegetation.

4 Land to which Policy applies

This Policy applies to the land identified on the Land Application Map.

Note. The Land Application Map shows the subject land divided into the following precincts:

- (a) Precinct 1 (Former Wonderland),
- (b) Precinct 2 (Eastern Creek),
- (c) Precinct 3 (Huntingwood),
- (d) Precinct 4 (Raceway),
- (e) Precinct 6 (Ropes Creek),
- (f) Precinct 7 (Erskine Park Employment Lands),
- (g) Precinct 8 (South of Sydney Catchment Authority Warragamba Pipelines),
- (h) Precinct 9 (Quarantine Station),
- (i) Precinct 10 (Greystanes Northern Employment Lands).

5 Definitions and notes

- (1) The Dictionary at the end of this Policy defines words and expressions for the purposes of this Policy.
- (2) Notes in this Policy are provided for guidance and do not form part of this Policy.

6 Consent authority

For the purposes of this Policy, the consent authority for development of land to which this Policy applies is, subject to the Act, the council (referred to in this Policy as *the relevant council*) of the local government area in which the land is situated.

Note. The approval of the Minister may also be required for the carrying out of development referred to in Part 3A of the Act (Major infrastructure and other projects).

7 Maps

- (1) A reference in this Policy to a named map adopted by this Policy 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.

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Clause 8 2009

Part 1 Preliminary

- (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 Policy, a map may be in, and may be kept and made available in, electronic or paper form, or both.

8 Relationship to other environmental planning instruments

(1) **SEPPs that do not apply to this Policy**

The following environmental planning instruments (or provisions) do not apply to the land to which this Policy applies:

State Environmental Planning Policy No 1—Development Standards

State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development (clause 6)

State Environmental Planning Policy No 60—Exempt and Complying Development

Note. Schedule 5 contains direct amendments to other environmental planning instruments.

(2) **This Policy to prevail over LEPS**

In the event of an inconsistency between this Policy and a local environmental plan or deemed environmental planning instrument that applies to the land to which this Policy applies, this Policy prevails to the extent of the inconsistency.

Part 2 Permitted or prohibited development

9 Land use zones

The land use zones under this Policy are as follows:

- (a) IN1 General Industrial,
- (b) E2 Environmental Conservation.

10 Zoning of land to which Policy applies

For the purposes of this Policy, land is within the zones shown on the Land Zoning Map.

11 Zone objectives and land use table

- (1) The Table at the end of this clause specifies for each zone:
 - (a) the objectives for development, and
 - (b) development that may be carried out without consent, and
 - (c) development that may be carried out only with consent, and
 - (d) development that is prohibited.
- (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.
- (3) In the Table at the end of this clause:
 - (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and
 - (b) a reference to a type of building or other thing does not include (despite any definition in this Policy) a reference to a type of building or other thing referred to separately in the Table in relation to the same zone.
- (4) This clause is subject to the other provisions of this Policy.

Land Use Table

Zone IN1 General Industrial

1 Objectives of zone

- To facilitate a wide range of employment-generating development including industrial, manufacturing, warehousing, storage and research uses and ancillary office space.

- To encourage employment opportunities along motorway corridors, including the M7 and M4.
- To minimise any adverse effect of industry on other land uses.
- To facilitate road network links to the M7 and M4 Motorways.
- To encourage a high standard of development that does not prejudice the sustainability of other enterprises or the environment.
- To provide for small-scale local services such as commercial, retail and community facilities (including child care facilities) that service or support the needs of employment-generating uses in the zone.

2 Permitted without consent

Nil.

3 Permitted with consent

Depots; Freight transport facilities; Industrial retail outlets; Industries (other than offensive or hazardous industries); Neighbourhood shops; Roads; Transport depots; Truck depots; Warehouse or distribution centres.

4 Prohibited

Any development not specified in item 2 or 3.

Zone E2 Environmental Conservation

1 Objectives of zone

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

2 Permitted without consent

Nil.

3 Permitted with consent

Artificial waterbodies; Environmental facilities; Environmental protection works; Flood mitigation works; Roads.

4 Prohibited

Any development not specified in item 2 or 3.

12 Unzoned land

- (1) Development may be carried out on unzoned land only with consent.
- (2) Before granting consent, the consent authority:
 - (a) must consider whether the development will impact on adjoining zoned land and, if so, consider the objectives for development in the zones of the adjoining land, and
 - (b) must be satisfied that the development is appropriate and is compatible with permissible land uses in any such adjoining land.

13 Additional permitted uses for particular land

- (1) Development on particular land that is described or referred to in Schedule 1 may be carried out:
 - (a) with consent, or
 - (b) if that Schedule so provides—without consent,in accordance with the conditions (if any) specified in that Schedule in relation to that development.
- (2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Policy.

14 Subdivision—consent requirements

- (1) Land to which this Policy applies may be subdivided, but only with consent.
- (2) However, consent is not required for a subdivision for the purpose only of any one or more of the following:
 - (a) widening a public road,
 - (b) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
 - (c) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
 - (d) rectifying an encroachment on a lot,
 - (e) creating a public reserve,
 - (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

Note. If a subdivision is exempt development, the Act enables the subdivision to be carried out without consent.

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Clause 15 2009

Part 2 Permitted or prohibited development

15 Child care centres

Despite any other provision of this Policy, a person may, with consent, carry out development for the purposes of a child care centre on land to which this Policy applies.

Part 3 Exempt and complying development

16 Exempt development

Note. Under section 76 of the Act, exempt development may be carried out without the need for development consent under Part 4 of the Act or for assessment under Part 5 of the Act.

The section states that exempt development:

- (a) must be of minimal environmental impact, and
 - (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), and
 - (c) cannot be carried out in a wilderness area (identified under the *Wilderness Act 1987*).
- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
 - (2) Development specified in Schedule 2 that meets the standards for the development contained in that Schedule 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:
 - (i) is listed on the State Heritage Register under the *Heritage Act 1977*, or
 - (ii) is subject to an interim heritage order under the *Heritage Act 1977*, or
 - (iii) is identified as a heritage item in an environmental planning instrument.
 - (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
 - (b) no fire safety measures are currently implemented, required or proposed for the building.

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Clause 17 2009

Part 3 Exempt and complying development

17 Complying development

Note. Under section 76A of the Act, development consent for the carrying out of complying development may be obtained by the issue of a complying development certificate.

The section states that development cannot be complying development if:

- (a) it is on land that is critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), or
 - (b) it is on land within a wilderness area (identified under the *Wilderness Act 1987*), or
 - (c) the development is designated development, or
 - (d) the development is on land that comprises, or on which there is, an item of environmental heritage (that is listed on the State Heritage Register or that is subject to an interim heritage order under the *Heritage Act 1977*), or
 - (e) the development requires concurrence (except a concurrence of the Director-General of the Department of Environment, Climate Change and Water in respect of development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat (identified under the *Threatened Species Conservation Act 1995*).
- (1) The objective of this clause is to identify development as complying development.
 - (2) Development specified in Schedule 3 that is carried out in compliance with the applicable development standards listed in that Schedule and that complies with the requirements of section 76A (6) of the Act and 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 relevant council for an on-site effluent disposal system if the development is undertaken on unsewered land.

Part 4 Development control plans

18 Requirement for development control plans

- (1) Except in such cases as the Director-General may determine by notice in writing to the consent authority or as provided by clause 19, the consent authority must not grant consent to development on any land to which this Policy applies unless a development control plan has been prepared for that land.

Note. Section 75M (4) of the Act provides that the requirement for the preparation of a development control plan may be satisfied for a project to which Part 3A of the Act applies by an application for approval and approval of a concept plan in respect of the subject land.

The Director-General is the relevant planning authority in relation to the preparation of a development control plan for the purposes of this Policy.

- (2) The requirements specified in Schedule 4 apply in relation to any such development control plan.
- (3) For the purposes of section 74D (3) of the Act, a development control plan that is required by this clause may be prepared and submitted by 60% of the owners of the land to which the plan applies.
- (4) The Minister is authorised, for the purposes of section 74D (5) (b) of the Act, to act in the place of the relevant planning authority in accordance with that section.
- (5) Without limiting subclause (2), if a development control plan is required to be prepared for part of a precinct only, the development control plan must:
 - (a) demonstrate the manner in which it integrates with planning for the whole of the precinct, and
 - (b) take into account any other development control plans applying to the precinct.
- (6) For the purposes of this clause, a development control plan is taken to have been prepared for so much of the land to which this Policy applies as is identified as the “Erskine Park Employment Area” under the *Penrith Development Control Plan 2006* (approved 21 August 2006 and as in force on 15 December 2006).

19 Existing precinct plans under SEPP 59

- (1) The consent authority may grant consent to development on any land to which this Policy applies without a development control plan being prepared for that land if the consent authority is satisfied that an existing precinct plan applies to that land.

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Clause 19 2009

Part 4 Development control plans

- (2) In determining a development application that relates to any land to which an existing precinct plan applies, the consent authority is to take the existing precinct plan into consideration.
- (3) In this clause, ***existing precinct plan*** means any of the following Precinct plans prepared under *State Environmental Planning Policy No 59—Central Western Sydney Economic and Employment Area* and in force as at the commencement of this Policy:
 - (a) Lot 11 Precinct Plan (Blacktown LGA), approved October 2005,
 - (b) Eastern Creek Precinct Plan (Blacktown LGA), approved March 2004 (stages 1 and 2) and December 2005 (stage 3),
 - (c) Raceway Precinct Plan (Blacktown LGA), approved 15 November 2006,
 - (d) Greystanes Estate Employment Lands Precinct Plan, approved June 2001,
 - (e) Former CSIRO Site, Pemulway Employment Land Precinct Plan, approved 20 September 2005.

Part 5 Principal development standards

20 Ecologically sustainable development

The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that the development contains measures designed to minimise:

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

21 Height of buildings

The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that:

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

22 Rainwater harvesting

The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that adequate arrangements will be made to connect the roof areas of buildings to such rainwater harvesting scheme (if any) as may be approved by the Director-General.

23 Development adjoining residential land

- (1) This clause applies to any land to which this Policy applies that is within 250 metres of land zoned primarily for residential purposes.
- (2) The consent authority must not grant consent to development on land to which this clause applies unless it is satisfied that:
 - (a) wherever appropriate, proposed buildings are compatible with the height, scale, siting and character of existing residential buildings in the vicinity, and
 - (b) goods, plant, equipment and other material resulting from the development are to be stored within a building or will be suitably screened from view from residential buildings and associated land, and
 - (c) the elevation of any building facing, or significantly exposed to view from, land on which a dwelling house is situated has been designed to present an attractive appearance, and
 - (d) noise generation from fixed sources or motor vehicles associated with the development will be effectively insulated or otherwise minimised, and

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Clause 24

2009

Part 5

Principal development standards

- (e) the development will not otherwise cause nuisance to residents, by way of hours of operation, traffic movement, parking, headlight glare, security lighting or the like, and
- (f) the development will provide adequate off-street parking, relative to the demand for parking likely to be generated, and
- (g) the site of the proposed development will be suitably landscaped, particularly between any building and the street alignment.

24 Development involving subdivision

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

- (a) the implications of the fragmentation of large lots of land,
- (b) whether the subdivision will affect the supply of land for employment purposes,
- (c) whether the subdivision will preclude other lots of land to which this Policy applies from having reasonable access to roads and services.

25 Public utility infrastructure

- (1) The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.
- (2) In this clause, *public utility infrastructure* includes infrastructure for any of the following:
 - (a) the supply of water,
 - (b) the supply of electricity,
 - (c) the supply of natural gas,
 - (d) the disposal and management of sewage.
- (3) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure referred to in this clause.

26 Development on or in vicinity of proposed transport infrastructure routes

- (1) This clause applies to any land to which this Policy applies that is situated on or in the vicinity of a proposed transport infrastructure route as shown on the Transport and Arterial Road Infrastructure Plan Map.

-
- (2) The consent authority must refer to the Director-General of the Department of Planning any application for consent to carry out development on land to which this clause applies.
 - (3) The consent authority must, before determining any such development application, consider any comments made by the Director-General as to the compatibility of the development to which the application relates with the proposed transport infrastructure route concerned.

27 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.

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Clause 27 2009

Part 5 Principal development standards

- (5) In deciding whether to grant concurrence, the Director-General must consider:
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (7) This clause does not allow consent to be granted for development that would contravene:
 - (a) a development standard for complying development, or
 - (b) clause 29 or 30.

Part 6 Miscellaneous provisions

28 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 Land Reservation Acquisition Map	Authority of the State
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Note. At the time this Policy was made no land was included on the Land Reservation Acquisition Map. If any land to which this Policy applies 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. 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*).

- (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.

29 Industrial Release Area—satisfactory arrangements for the provision of regional transport infrastructure and services

- (1) This clause applies to the land shown edged heavy black on the Industrial Release Area Map, but does not apply to any such land if the whole or any part of it is in a special contributions area (as defined by section 93C of the Act).

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Clause 30 2009

Part 6 Miscellaneous provisions

- (2) The object of this clause is to require assistance to authorities of the State towards the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network) to satisfy needs that arise from development on land to which this clause applies.
- (3) Despite any other provision of this Policy, the consent authority must not consent to development on land to which this clause applies unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network) in relation to the land to which this Policy applies.
- (4) Subclause (3) only applies if the land that is the subject of the application for development consent was not being used for industrial purposes immediately before the application was made.
- (5) Subclause (3) does not apply in relation to:
 - (a) any land that is reserved exclusively for a public purpose, or
 - (b) any development that is, in the opinion of the consent authority, of a minor nature.

30 Controls relating to miscellaneous permissible uses**(1) Industrial retail outlets**

If development for the purposes of an industrial retail outlet is permitted under this Policy, the retail floor area must not exceed:

- (a) 20% of the combined gross floor area of the industrial retail outlet and the building or place on which the relevant industry is carried out, or
- (b) 400 square metres,
whichever is the lesser.

(2) Neighbourhood shops

If development for the purposes of a neighbourhood shop is permitted under this Policy, the retail floor area must not exceed 200 square metres.

31 Design principles

In determining a development application that relates to land to which this Policy applies, the consent authority must take into consideration whether or not:

- (a) the development is of a high quality design, and
- (b) a variety of materials and external finishes for the external facades are incorporated, and

-
- (c) high quality landscaping is provided, and
 - (d) the scale and character of the development is compatible with other employment-generating development in the precinct concerned.

32 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 under Division 6 of Part 3 of the Act.
Note. Any such development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or 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 Director-General as the relevant planning authority for the purposes of Division 6 of Part 3 of the Act.
- (4) This clause does not apply to a tree or other vegetation that the relevant council or the Director-General (as the relevant planning authority for the purposes of Division 6 of Part 3 of the Act) is satisfied:
 - (a) is dying or dead and is not required as the habitat of native fauna, or
 - (b) is a risk to human life or property.
- (5) 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*.

33 Infrastructure development and use of existing buildings of the Crown

- (1) This Policy 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, or that is exempt development, under the *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Policy does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

34 Savings provision

Except for clause 29, this Policy does not apply to or in respect of a development application (including a staged development application), or to an application for approval of a project or a concept plan under Part 3A of the Act, made (but not finally determined) before the commencement of this Policy.

Schedule 1 Additional permitted uses

(Clause 13)

1 Precinct 2 (the Eastern Creek Precinct)—former Wallgrove quarry

- (1) This clause applies to certain land at Wallgrove, being lot 2, DP 262213, lot 1, DP 400697, Lot W, DP 419612, lot 10, DP 241859 and lot 11, DP 558723.
- (2) The consent authority may consent to development on land to which this clause applies for the purposes of a waste facility for general solid waste (non-putrescible).

2 Precinct 4 (the Raceway Precinct)

- (1) This clause applies to lots 1 and 2, DP 1122038.
- (2) The consent authority may consent to development on land to which this clause applies for the purposes of:
 - (a) general automotive and motor sport industry related uses, or
 - (b) any commercial or retail uses associated with those referred to in paragraph (a)).

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Schedule 2 Exempt development

Schedule 2 Exempt development

(Clause 16)

1 Change of use of a building

The change of use of an existing building that does not result in an increase in the gross floor area, size or height of the building.

2 Signs

- (1) The erection of any new sign that is not located above the wall of any building and is no more than 10 square metres.
- (2) Development for the purposes of a sign is not exempt development if the sign is a neon sign.

Complying development

Schedule 3

Schedule 3 Complying development

(Clause 17)

Note. At the commencement of this Policy, this Schedule was blank.

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State Environmental Planning Policy (Western Sydney Employment Area)
2009

Schedule 4 Requirements relating to preparation and content of development control plans

Schedule 4 Requirements relating to preparation and content of development control plans

(Clause 18 (2))

1 General matters

- (1) A development control plan must make provision for or with respect to the following matters:
 - (a) traffic, parking and key access points,
 - (b) infrastructure services (including public transport),
 - (c) a detailed staging plan for any proposed development,
 - (d) biodiversity,
 - (e) flooding,
 - (f) urban design and landscaping,
 - (g) subdivision layout,
 - (h) heritage conservation (both indigenous and non-indigenous),
 - (i) extraction and rehabilitation,
 - (j) protection of the Sydney Catchment Authority Warragamba Pipelines,
 - (k) protection of electricity transmission facilities,
 - (l) management of the public domain,
 - (m) community and retail facilities.
- (2) A development control plan may include detailed analysis of the development proposed within the precinct (or part of the precinct) to which it applies.

2 Traffic, parking and key access points

In making provision for or with respect to traffic, parking and key access points, a development control plan must be consistent with the Transport and Arterial Road Infrastructure Plan and address (or include) the following:

- (a) roads, transit ways and provision for walking and cycling, both within the precinct to which the plan applies as well as off site linkages,
- (b) freight transport provisions, including initiatives for integrating freight handling within the precinct to which the plan applies, and maximising opportunities for synergies between industries with regard to materials handling,

- (c) the volume of traffic likely to be generated during construction and operation and an assessment of the predicted impact of that traffic volume on the safety and efficiency of the surrounding road network.

3 Infrastructure services

- (1) In making provision for or with respect to infrastructure services, a development control plan must address the following:
 - (a) services such as water, sewerage, drainage and stormwater,
 - (b) opportunities for rainwater harvesting from roofs,
 - (c) corridors for telephone, electricity and gas supply.
- (2) Stormwater management systems should be in accordance with relevant council and State government stormwater management plans and policies.
- (3) The development control plan must also:
 - (a) consider options for shared infrastructure corridors, and
 - (b) contain appropriate on-site design and control measures to be implemented to ensure that the water quality of the receiving environment is not adversely affected by the proposed development, and
 - (c) address the timing, funding and provision of the services.

4 Biodiversity

- (1) In making provision for or with respect to biodiversity, a development control plan must address the following:
 - (a) the existing natural environment, including any remnant vegetation, threatened species, endangered ecological communities, critical habitat, wildlife corridors and riparian areas,
 - (b) opportunities to offset the impact of any clearing of native vegetation,
 - (c) species or kinds of trees or other vegetation to which clause 32 applies.
- (2) Where appropriate, the development control plan must provide for the preparation of management plans for the rehabilitation of any communities of flora and fauna so that ecosystem diversity is maintained.

5 Flooding

- (1) In making provision for or with respect to flooding, a development control plan must provide a comprehensive flood analysis that (without limitation) addresses or includes the following:
- (a) the impact of flooding on proposed development, including an estimation of the extent of flood prone land, high hazard areas and floodways, the implications of the full range of floods and the safety of people using or within the site,
 - (b) the impact of proposed development on flood behaviour on and off the site (including existing and planned development in the wider area),
 - (c) the flood hazard in the area (including hydraulic hazard, flood warning time, rate of rise of floodwater and duration of floods) and access and evacuation issues,
 - (d) viable strategies to manage any adverse impact of proposed development on flood behaviour.
- (2) In relation to flooding, the development control plan should be consistent with the provisions of the NSW Government's *Floodplain Development Manual: the management of flood liable land* (April 2005) and any relevant local and regional policies.

6 Urban design and landscaping

In making provision for or with respect to urban design and landscaping, a development control plan must:

- (a) include urban design principles drawn from an analysis of the site and its context, and
- (b) develop urban design parameters to guide subsequent development with measures, including setbacks, building materials and colours, to minimise the visual impact of development, particularly if it is highly visible from major roads and the M7 and M4 Motorways,
- (c) identify areas of high visibility and consider options such as vegetation screens or landmark buildings of outstanding design.

7 Subdivision layout

In making provision for or with respect to subdivision layout, a development control plan must:

- (a) demonstrate that the subdivision layout is appropriate by achieving high degrees of access for all forms of transport (including access for pedestrians), and

- (b) detail the subdivision layout, including lot size and mix and the location of open space and the road network, and
- (c) provide for a detailed contour plan that identifies the finished contour levels of the site with details provided on the earthworks required to achieve the finished contours.

8 Heritage conservation

In making provision for or with respect to heritage conservation, a development control plan must address:

- (a) the impact of proposed development on indigenous and non-indigenous heritage values, and
- (b) opportunities to offset impacts on areas of heritage significance.

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State Environmental Planning Policy (Western Sydney Employment Area)
2009

Schedule 5 Amendment of other environmental planning instruments

Schedule 5 Amendment of other environmental planning instruments

5.1 State Environmental Planning Policy No 59—Central Western Sydney Economic and Employment Area

[1] **Part 1 Preliminary**

Omit the introductory note at the beginning of the Part.

[2] **Clause 1**

Omit the clause. Insert instead:

1 Name of Policy

This Policy is *State Environmental Planning Policy No 59—Central Western Sydney Regional Open Space and Residential*.

[3] **Clause 2 Aims of Policy**

Omit clause 2 (c) and (f).

[4] **Clause 3 Definitions**

Omit “sheet 2 of” from the definition of *item of the environmental heritage* in clause 3 (1).

[5] **Clause 3 (1), definition of “Precinct”**

Omit the definition. Insert instead:

Precinct means an area of land designated by the Director-General as a precinct for the purposes of this Policy.

[6] **Clause 3 (1), definition of “the map”**

Omit the definition. Insert instead:

the map means the map marked “State Environmental Planning Policy No 59—Central Western Sydney Regional Open Space and Residential—Land Zoning Map” deposited in the head office of the Department of Planning and copies of which are deposited in the offices of the councils of the local government areas to which this Policy applies, as amended by the maps marked as follows which, and copies of which, are so deposited:

[7] **Clause 3 (1A) and (1B)**

Omit the subclauses.

[8] Clause 4

Omit the clause. Insert instead:

4 Land to which this Policy applies

This Policy applies to the following land as shown on the map:

- (a) land identified as Regional Open Space Zone,
- (b) land identified as Residential Zone.

[9] Clause 5 Relationship with other environmental planning instruments

Omit clause 5 (1) and (1C).

[10] Clause 10 Matters for consideration

Omit clause 10 (a) (and the heading before the paragraph). Insert instead:

Economic development

- (a) the contribution the development makes to the economic development of Central Western Sydney,

[11] Clause 10 (b), (e) and (g)

Omit the paragraphs.

[12] Clause 11 Declaration by Minister of release area

Omit “‘Employment’ or” from clause 11 (1).

[13] Clause 11, note

Omit the note at the end of the clause.

[14] Clause 12 Necessity for Precinct plan and section 94EA contributions plan

Omit “section 94B” from clause 12 (b). Insert instead “section 94EA”.

[15] Clause 12, note

Omit the note at the end of the clause.

[16] Clause 14 Preparation of draft Precinct plans

Omit the note at the end of the clause.

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State Environmental Planning Policy (Western Sydney Employment Area)
2009

Schedule 5 Amendment of other environmental planning instruments

[17] Clause 22

Omit the clause. Insert instead:

22 Zoning of land

For the purposes of this Policy, land is within a zone if the land is shown on the map in the manner specified below in relation to that zone:

Residential Zone—edged heavy black and coloured pink

Regional Open Space Zone—edged heavy black and coloured green

[18] Clause 23 Permissible and prohibited development

Omit the matter relating to the Employment Zone from the Table to the clause.

5.2 Blacktown Local Environmental Plan 1988

Clause 3 Land to which plan applies

Insert after clause 3 (3):

- (4) This plan does not apply to the land to which *State Environmental Planning Policy (Western Sydney Employment Area) 2009* applies.

5.3 Fairfield Local Environmental Plan 1994

Clause 3 Where does this plan apply?

Insert at the end of clause 3 (2):

Land to which *State Environmental Planning Policy (Western Sydney Employment Area) 2009* applies.

5.4 Holroyd Local Environmental Plan 1991

Clause 3 Land to which plan applies

Insert after clause 3 (2):

- (3) This plan does not apply to the land to which *State Environmental Planning Policy (Western Sydney Employment Area) 2009* applies.

5.5 Penrith Local Environmental Plan 1994 (Erskine Park Employment Area)

Clause 3 Land to which plan applies

Insert at the end of clause 3 (3):

State Environmental Planning Policy (Western Sydney Employment Area) 2009.

Dictionary

(Clause 5 (1))

artificial waterbody means an artificial body of water, including any constructed waterway, canal, inlet, bay, channel, dam, pond, lake or artificial wetland, but does not include a dry detention basin or other stormwater management construction that is only intended to hold water intermittently.

biodiversity means biological diversity.

biological diversity has the same meaning as in the *Threatened Species Conservation Act 1995*.

Note. The term is defined as follows:

biological diversity means the diversity of life and is made up of the following 3 components:

- (a) genetic diversity—the variety of genes (or units of heredity) in any population,
- (b) species diversity—the variety of species,
- (c) ecosystem diversity—the variety of communities or ecosystems.

building has the same meaning as in the Act.

Note. The term is defined to include part of a building and any structure or part of a structure, but not including a manufactured home, a moveable dwelling or associated structure (or part of a manufactured home, moveable dwelling or associated structure) or a temporary structure within the meaning of the *Local Government Act 1993*.

building height (or **height of building**) means the vertical distance between ground level (existing) at any point to highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

child care centre means a building or place used for the supervision and care of children that:

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

but does not include:

- (c) a building or place used for home-based child care, or
- (d) an out-of-home care service provided by an agency or organisation accredited by Communities NSW, or
- (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or

-
- (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or
 - (h) a service that is concerned primarily with the provision of:
 - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
 - (ii) private tutoring, or
 - (i) a school, or
 - (j) a service provided at exempt premises (within the meaning of section 200 of the *Children and Young Persons (Care and Protection) Act 1998*), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

clearing native vegetation has the same meaning as in the *Native Vegetation Act 2003*.

Note. The term is defined as follows:

clearing native vegetation means any one or more of the following:

- (a) cutting down, felling, thinning, logging or removing native vegetation,
- (b) killing, destroying, poisoning, ringbarking, uprooting or burning native vegetation.

(See Division 3 of Part 3 of the *Native Vegetation Act 2003* for the exclusion of routine agricultural management and other farming activities from constituting the clearing of native vegetation if the landholder can establish that any clearing was carried out for the purpose of those activities.)

depot means a building or place used for the storage (but not sale or hire) of plant, machinery or other goods (which support the operations of an existing undertaking) when not required for use.

environmental facility means a building or place that provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides or the like, and associated display structures.

environmental protection works means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like.

extractive industry means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.

extractive material means sand, soil, gravel, rock or similar substances that are not minerals within the meaning of the *Mining Act 1992*.

flood mitigation work means work designed and constructed for the express purpose of mitigating flood impacts. It involves changing the characteristics of flood behaviour to alter the level, location, volume, speed or timing of flood waters to mitigate flood impacts. Types of works may include excavation, construction or enlargement of any fill, wall, or levee that will alter riverine flood behaviour, local overland flooding, or tidal action so as to mitigate flood impacts.

freight transport facility means a facility used principally for the bulk handling of goods for transport by road, rail, air or sea, including any facility for the loading and unloading of vehicles, aircraft, vessels or containers used to transport those goods and for the parking, holding, servicing or repair of those vehicles, aircraft or vessels or for the engines or carriages involved.

general solid waste (non-putrescible) has the same meaning as in clause 49 of Schedule 1 to the *Protection of the Environment Operations Act 1997*.

ground level (existing) means the existing level of a site at any point.

hazardous industry means development for the purpose of an industry that, when the development is in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the development from existing or likely future development on other land in the locality), would pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

hazardous storage establishment means any establishment where goods, materials or products are stored that, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality), would pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

home-based child care means a dwelling used by a resident of the dwelling for the supervision and care of one or more children and that satisfies the following conditions:

- (a) the service is appropriately licensed within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*,
- (b) the number of children (including children related to the carer or licensee) does not at any one time exceed 7 children under the age of 12 years, including no more than 5 who do not ordinarily attend school.

Industrial Release Area Map means the State Environmental Planning Policy (Western Sydney Employment Area) 2009—Industrial Release Area Map.

industrial retail outlet means a building or place that:

- (a) is used in conjunction with an industry but not in conjunction with a warehouse or distribution centre, and
- (b) is situated on the land on which the industry is carried out, and
- (c) is used for the display or sale (whether by retail or wholesale) of only those goods that have been manufactured on the land on which the industry is carried out.

Note. See clause 30 for controls relating to the retail floor area.

industry means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing or adapting, or the research and development of any goods, chemical substances, food, agricultural or beverage products, or articles for commercial purposes, but does not include extractive industry or a mine.

Land Application Map means the State Environmental Planning Policy (Western Sydney Employment Area) 2009—Land Application Map.

Land Reservation Acquisition Map means the State Environmental Planning Policy (Western Sydney Employment Area) 2009—Land Reservation Acquisition Map.

Land Zoning Map means the State Environmental Planning Policy (Western Sydney Employment Area) 2009—Land Zoning Map.

mine means any place (including any excavation) where an operation is carried on for mining of any mineral by any method and any place on which any mining related work is carried out, but does not include a place used only for extractive industry.

mining means mining carried out under the *Mining Act 1992* or the recovery of minerals under the *Offshore Minerals Act 1999*, and includes:

- (a) the construction, operation and decommissioning of associated works, and
- (b) the rehabilitation of land affected by mining.

native vegetation has the same meaning as in the *Native Vegetation Act 2003*.

neighbourhood shop means retail premises used for the purposes of selling small daily convenience goods such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include restricted premises.

Note. See clause 30 for controls relating to the retail floor area.

offensive industry means any development for the purpose of an industry that would, when the development is in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the development from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

offensive storage establishment means any establishment where goods, materials or products are stored and that would, when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

precinct means a precinct shown on the Land Application Map.

public utility undertaking means any of the following undertakings carried on or permitted to be carried on by or by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf or river undertakings,
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services,

and a reference to a person carrying on a public utility undertaking includes a reference to a council, electricity supply authority, Government Department, corporation, firm or authority carrying on the undertaking.

restricted premises has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

retail premises means a building or place used for the purpose of selling items by retail, or for hiring or displaying items for the purpose of selling them by retail or hiring them out, whether the items are goods or materials (or whether also sold by wholesale).

school means a government school or non-government school within the meaning of the *Education Act 1990*.

the Act means the *Environmental Planning and Assessment Act 1979*.

Transport and Arterial Road Infrastructure Plan Map means the State Environmental Planning Policy (Western Sydney Employment Area) 2009—Transport and Arterial Road Infrastructure Plan Map.

transport depot means a building or place used for the parking or servicing of motor powered or motor drawn vehicles used in connection with a passenger transport undertaking, business, industry or shop.

truck depot means a building or place used for the servicing and parking of trucks, earthmoving machinery and the like.

warehouse or distribution centre means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made.