



New South Wales

# **State Environmental Planning Policy (Kurnell Peninsula) Amendment (Zoning) 2010**

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*. (P07/00988/PC)

TONY KELLY, MLC  
Minister for Planning

## **State Environmental Planning Policy (Kurnell Peninsula) Amendment (Zoning) 2010**

under the

Environmental Planning and Assessment Act 1979

### **1 Name of Policy**

This Policy is *State Environmental Planning Policy (Kurnell Peninsula) Amendment (Zoning) 2010*.

### **2 Commencement**

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

### **3 Repeal of Policy**

- (1) This Policy is repealed on the day following the day on which this Policy commences.
- (2) The repeal of this Policy does not, because of the operation of sections 5 (6) and 30 of the *Interpretation Act 1987*, affect any amendment made by this Policy.

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## **Schedule 1      Amendment of Sydney Regional Environmental Plan No 17—Kurnell Peninsula (1989)**

**[1] Clause 1**

Omit the clause. Insert instead:

**1 Name of Policy**

This Policy is *State Environmental Planning Policy (Kurnell Peninsula) 1989*.

**[2] Clauses 2, 3, 4 (except where secondly occurring in 4 (b)), 5, 6 (except where secondly occurring in 6 (2)), 7–12, 21, 22 (2) (c), 24, 28, 29 (1), (2) (b) (where secondly occurring) and (3), 30–33, 35 (3) (a) and 36 (3) (b)**

Omit “plan” wherever occurring. Insert instead “Policy”.

**[3] Clause 2 Aims, objectives etc**

Omit clause 2 (1) (e). Insert instead:

- (e) to promote the sharing of responsibility for environmental planning on the Kurnell Peninsula between the Council, the Department of Planning, the Department of Environment, Climate Change and Water, the Department of Industry and Investment and Sydney Water Corporation.

**[4] Clause 5 Definitions**

Insert in appropriate order in clause 5 (1):

***Floor Space Ratio Map*** means the “State Environmental Planning Policy (Kurnell Peninsula) 1989 Floor Space Ratio Map” deposited in the office of the Department.

***Front Building Line Map*** means the “State Environmental Planning Policy (Kurnell Peninsula) 1989 Front Building Line Map” deposited in the office of the Department.

***Height of Buildings Map*** means the “State Environmental Planning Policy (Kurnell Peninsula) 1989 Height of Buildings Map” deposited in the office of the Department.

***Landscaped Area Map*** means the “State Environmental Planning Policy (Kurnell Peninsula) 1989 Landscaped Area Map” deposited in the office of the Department.

***Lot Size Map*** means the “State Environmental Planning Policy (Kurnell Peninsula) 1989 Lot Size Map” deposited in the office of the Department.

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### [5] Clause 5 (1), definition of “map”

Insert in appropriate order in the definition:

State Environmental Planning Policy (Kurnell Peninsula)  
Amendment (Zoning) 2010

State Environmental Planning Policy (Kurnell Peninsula)  
Amendment (Zoning) 2010—Delayed Rezoning—Sheets 1–7

### [6] Clause 5 (3)

Omit “Water Board”. Insert instead “Sydney Water Corporation”.

### [7] Clause 5 (4)–(7)

Insert after clause 5 (3):

- (4) The zoning of the land shown on each sheet of the map marked “State Environmental Planning Policy (Kurnell Peninsula) Amendment (Zoning) 2010—Delayed Rezoning” (the *delayed land*) does not have effect until a date specified by the Minister by order published in the Gazette in respect of that sheet.
- (5) The Minister must not make such an order in respect of the delayed land unless the Minister is satisfied that the land:
  - (a) is vested in the Council, and
  - (b) has been remediated and is suitable for the purposes for which it is being rezoned.
- (6) Until such time as an order takes effect under this clause, the zone applying to the delayed land remains the zone applying to that land shown on the map.
- (7) On the publication of an order made under this clause, the map is amended as shown by each of those sheets.

### [8] Clause 6A

Insert after clause 6:

#### 6A Adoption of definitions in the standard instrument

Despite clauses 5 and 6, the words and expressions used in this Policy in relation to development on land in Zone RE1 Public Recreation, Zone E2 Environmental Conservation and Zone E4 Environmental Living have the same meaning as they have in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

**[9] Clause 8 Zones indicated on the map**

Insert at the end of clause 8:

Zone RE1 Public Recreation—coloured green and lettered “RE1”.

Zone E2 Environmental Conservation—coloured orange and lettered “E2”.

Zone E4 Environmental Living—coloured light orange and lettered “E4”.

**[10] Clause 9 Zone objectives and development control table**

Insert at the end of the Table to clause 9:

**Zone RE1 Public Recreation**

**1 Objectives of zone**

The objectives of this zone are as follows:

- (a) to enable land to be used for public open space or recreational purposes,
- (b) to provide a range of recreational settings and activities and compatible land uses,
- (c) to protect and enhance the natural environment for recreational purposes,
- (d) to manage and protect groundwater and groundwater dependent ecosystems.

**2 Without development consent**

Nil.

**3 Only with development consent**

Building identification signs; business identification signs; community facilities; drainage; earthworks; environmental facilities; environmental protection works; flood mitigation works; information and education facilities; kiosks (not involving the use of more than 40 square metres of gross floor area); recreation areas; recreation facilities (indoor); recreation facilities (outdoor); roads.

**4 Prohibited**

Any purpose other than a purpose included in Item 2 or 3.

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### **Zone E2 Environmental Conservation**

#### **1 Objectives of zone**

The objectives of this zone are as follows:

- (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic value,
- (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values,
- (c) to manage and protect groundwater and groundwater dependent ecosystems.

#### **2 Without development consent**

Nil.

#### **3 Only with development consent**

Drainage; earthworks; environmental facilities; environmental protection works; flood mitigation works; information and education facilities; roads.

#### **4 Prohibited**

Any purpose other than a purpose included in Item 2 or 3.

### **Zone E4 Environmental Living**

#### **1 Objectives of zone**

The objectives of this zone are as follows:

- (a) to provide for low-impact residential development in areas of special ecological, scientific or aesthetic value,
- (b) to ensure that residential development does not have an adverse effect on those values,
- (c) to encourage residential development on land within this zone that has been rehabilitated for that purpose,
- (d) to manage and protect groundwater and groundwater dependent ecosystems.

#### **2 Without development consent**

Home occupations.

**3 Only with development consent**

Business identification signs; child care centres, community facilities; drainage; dwelling houses; earthworks; environmental protection works; exhibition homes; exhibition villages; flood mitigation works; group homes; health consulting rooms; home-based child care; home businesses; recreation areas; roads; secondary dwellings (having a total floor area not exceeding 60 square metres).

**4 Prohibited**

Any purpose other than a purpose included in Item 2 or 3.

**[11] Clauses 20A–20F**

Insert after clause 20:

**20A Minimum subdivision lot size within Zone E4 Environmental Living**

- (1) The objective of this clause is to minimise the impact of development on the scenic, environmental and heritage values of the locality.
- (2) This clause applies to a subdivision of any land shown within Zone E4 Environmental Living on the Lot Size Map that requires development consent and that is carried out after the commencement of this clause.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.
- (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

**20B Height of buildings within Zone E4 Environmental Living**

- (1) The objective of this clause is to minimise the impact of development on the scenic, environmental and heritage values of the locality.
- (2) The height of a building on any land within Zone E4 Environmental Living is not to exceed the maximum height shown for the land on the Height of Buildings Map.

**20C Floor space ratio within Zone E4 Environmental Living**

- (1) The objective of this clause is to minimise the impact of development on the scenic, environmental and heritage values of the locality.

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- (2) The maximum floor space ratio for a building on any land within Zone E4 Environmental Living is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

### **20D Front building line within Zone E4 Environmental Living**

- (1) The objective of this clause is to ensure that development of the land within Zone E4 Environmental Living results in a suburban environment characterised by dwellings that are integrated into a landscaped setting.
- (2) A building on any land within Zone E4 Environmental Living must have a setback from the front boundary that is not less than the minimum front building line setback shown for the land on the Front Building Line Map.

### **20E Landscaped area within Zone E4 Environmental Living**

- (1) The objective of this clause is to ensure that development of the land within Zone E4 Environmental Living results in a suburban environment characterised by dwellings that are integrated into a landscaped setting.
- (2) Land on which a dwelling house is erected within Zone E4 Environmental Living must have a landscaped area that is not less than the minimum landscaped area shown for the land on the Landscaped Area Map.

### **20F Groundwater vulnerability**

- (1) The objective of this clause is to maintain the hydrological functions of key groundwater systems and to protect vulnerable groundwater resources from contamination as a result of inappropriate development.
- (2) This clause applies to land in Zone RE1 Public Recreation, Zone E2 Environmental Conservation and Zone E4 Environmental Living.
- (3) In assessing a development application for land to which this clause applies, the Council must consider any potential adverse impact the proposed development is likely to have on the following:
  - (a) the characteristics of groundwater present in the locality,
  - (b) the risk of groundwater contamination,
  - (c) groundwater dependent ecosystems.



- (4) Development consent must not be granted to development on land to which this clause applies unless the Council is satisfied that:
- (a) the development is designed, sited and will be managed to avoid any adverse environmental impact, or
  - (b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or
  - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

**[12] Clause 22 Restriction of development of wetland areas**

Omit “Director-General of Agriculture, the Director of National Parks and Wildlife” from clause 22 (2) (f).

Insert instead “Director-General of the Department of Industry and Investment, the Director-General of the Department of Environment, Climate Change and Water”.

**[13] Clause 24 Sydney Water Corporation requirements**

Omit “Water Board” and “Water Board’s” wherever occurring.

Insert instead “Sydney Water Corporation” and “Sydney Water Corporation’s” respectively.

**[14] Clause 25 Department of Environment, Climate Change and Water requirements**

Omit “Water Resources”.

Insert instead “Environment, Climate Change and Water”.

**[15] Clause 26 Consultation with government bodies**

Omit “Director of National Parks and Wildlife” from clause 26 (1).

Insert instead “Director-General of Department of Environment, Climate Change and Water”.

**[16] Clause 26 (2)**

Omit “Agriculture and the Managing Director, MSB Sydney Ports Authority”.

Insert instead “the Department of Industry and Investment and the Chief Executive of Sydney Ports Corporation”.

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### [17] Clause 26 (3)

Omit “Secretary of the Department of Mineral Resources”.

Insert instead “Director-General of the Department of Industry and Investment”.

### [18] Clause 27 Development control—coastal areas

Omit “Director of Public Works” from clause 27 (a).

Insert instead “Director-General of the Department of Services, Technology and Administration”.

### [19] Clause 32 Suspension of covenants

Insert “(Residential Zone), Zone RE1 Public Recreation, Zone E2 Environmental Conservation or Zone E4 Environmental Living” after “Zone No 2 (a)” in clause 32 (1).

### [20] Clause 32A

Insert after clause 32:

#### **32A Suspension of covenants, agreements and instruments on land within Zones RE1 Public Recreation, E2 Environmental Conservation and E4 Environmental Living**

- (1) For the purpose of enabling development on land within Zone RE1 Public Recreation, E2 Environmental Conservation or E4 Environmental Living 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.
- (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

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- (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).

**[21] Clause 36 What is complying development**

Insert after clause 36 (3) (k):

- (k1) is within Zone E4 Environmental Living, or

**[22] Schedule 5 Exempt development**

Omit the matters relating to the following types of activity from the Schedule:

- Access ramps for the disabled
- Advertising structures (1 Street and traffic signs and 5 Home activity identification signs)
- Aerials/Antennae/Microwave antennae/Satellite dishes
- Air conditioning units
- Awnings, canopies and security/storm blinds or shutters
- Barbecues (portable and fixed structures)
- Bird aviaries and pet animal shelters
- Building alterations (external)
- Building alterations (internal)
- Bushfire hazard reduction
- Cabanas and gazebos
- Changes of use
- Clothes hoists/lines
- Decks and patios
- Demolition of a structure
- Driveways and pathways
- Fences and gates
- Flagpoles

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Greenhouses, garden sheds, studios, cubby houses and playground  
equipment

Home activities

Letter box

Pergolas, and fixed awnings, shade structures/sunshades at ground floor  
level or over an existing first floor deck

Public facilities and amenities (new construction and use)

Retaining walls

Water heaters

Water tanks

**[23] Schedule 6 Complying development—general provisions**

Omit the matters relating to the following types of complying development  
from Part 1 of the Schedule:

Building alterations (internal)

Cabanas and gazebos

Decks and Patios

Demolition

Fences, Gates and Retaining Walls

Garages

Greenhouses, garden sheds, studios, cubby houses

Pergolas, awnings, shade structures/sunshades, carports

**[24] Schedule 6, Parts 1 and 2**

Omit “plan” wherever occurring in the paragraphs (b), (c) and (f) of the matter  
relating to “Subdivision for one or more of the following purposes only”.

Insert instead “Policy”.