



New South Wales

State Environmental Planning Policy (Major Development) Amendment (State Significant Sites—South Wallarah Peninsula) 2010

under the

Environmental Planning and Assessment Act 1979

His Excellency the Lieutenant-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. (10/14727)

TONY KELLY, MLC
Minister for Planning

State Environmental Planning Policy (Major Development) Amendment (State Significant Sites—South Wallarah Peninsula) 2010

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Major Development) Amendment (State Significant Sites—South Wallarah Peninsula) 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- (1) This Policy is repealed on the day following the day on which this Policy commences.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.

Schedule 1 Amendments

1.1 State Environmental Planning Policy (Major Development) 2005

[1] Schedule 3 State significant sites

Omit Part 14.

[2] Schedule 3

Insert in the Schedule with appropriate Part numbering:

Part South Wallarah Peninsula 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 *South Wallarah Peninsula site*.

2 Interpretation

(1) In this Part:

Additional Permitted Uses Map means the State Environmental Planning Policy (Major Development) 2005 South Wallarah Peninsula Additional Permitted Uses Map.

Height of Buildings Map means the State Environmental Planning Policy (Major Development) 2005 South Wallarah Peninsula Height of Buildings Map.

heritage conservation area means an area of land shown on the Heritage Map as a heritage conservation area or as a place of Aboriginal heritage significance.

heritage item means a building, work, archaeological site, tree, place or Aboriginal object shown on the Heritage Map as a heritage item or described in the table to clause 22.

Heritage Map means the State Environmental Planning Policy (Major Development) 2005 South Wallarah Peninsula Heritage Map.

Land Application Map means the State Environmental Planning Policy (Major Development) 2005 South Wallarah Peninsula Land Application Map.

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Land Reservation Acquisition Map means the State Environmental Planning Policy (Major Development) 2005 South Wallarah Peninsula Land Reservation Acquisition Map.

Land Zoning Map means the State Environmental Planning Policy (Major Development) 2005 South Wallarah Peninsula Land Zoning Map.

relevant council, in relation to land, means the council of the local government area in which the land is situated.

- (2) A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* unless it is otherwise defined in this Part.

3 Consent authority

The consent authority for development on land within the South Wallarah Peninsula site, other than development that is a project to which Part 3A of the Act applies, is the relevant council.

4 Maps

- (1) A reference in this Part to a named map adopted by this Part is a reference to a map by that name:
- (a) approved by the Minister when the map is adopted, and
 - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this 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.

5 Relationship with other environmental planning instruments

The only environmental planning instruments that apply, according to their terms, to land within the South Wallarah

Peninsula site are this Policy and all other State environmental planning policies, other than:

- (a) *State Environmental Planning Policy No 1—Development Standards*, and
- (b) *State Environmental Planning Policy No 71—Coastal Protection*.

Division 2 Provisions relating to development in South Wallarah Peninsula site

6 Application of Division

- (1) This Division applies to development on land within the South Wallarah Peninsula site and so applies whether or not the development is a project to which Part 3A of the Act applies, except as provided by subclause (2).
- (2) Clauses 8–12, 14, 17, 19, 21, 22, 23, 24, 26 and 29 do not apply 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 South Wallarah Peninsula site is in one of the following zones if the land is shown on the Land Zoning Map as being within that zone:

- (a) Zone R2 Low Density Residential,
- (b) Zone E1 National Parks and Nature Reserves,
- (c) Zone E2 Environmental Conservation.

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,
 - (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents,

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- (c) to encourage development that does not impact on the scenic, aesthetic and cultural heritage qualities of the built and natural environment on the Wallarah Peninsula,
 - (d) to encourage development that responds and is sympathetic to the surrounding built and natural environmental setting,
 - (e) to ensure that the nuisance generated by non-residential development, such as that related to operating hours, noise, loss of privacy, vehicular and pedestrian traffic or other factors, is controlled so as to preserve the quality of life for residents in the area.
- (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:
- bed and breakfast accommodation; boarding houses; car parks; child care centres; community facilities; dwelling houses; educational establishments; environmental facilities; flood mitigation works; group homes; health consulting rooms; home-based child care; home businesses; home industries; hospitals; information and education facilities; neighbourhood shops; places of public worship; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); roads; semi-detached dwellings; shop top housing; signage.
- (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 E1 National Parks and Nature Reserves

- (1) The objectives of Zone E1 National Parks and Nature Reserves are as follows:
- (a) to enable the management and appropriate use of land that is reserved under the *National Parks and Wildlife Act 1974* or that is acquired under Part 11 of that Act,
 - (b) to enable uses authorised under the *National Parks and Wildlife Act 1974*,

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- (c) to identify land that is to be reserved under the *National Parks and Wildlife Act 1974* and to protect the environmental significance of that land.
 - (2) Development for any of the following purposes is permitted without development consent on land within Zone E1 National Parks and Nature Reserves:
uses authorised under the *National Parks and Wildlife Act 1974*.
 - (3) Development for any of the following purposes is permitted only with development consent on land within Zone E1 National Parks and Nature Reserves:
nil.
 - (4) Except as otherwise provided by this Part, development is prohibited on land within Zone E1 National Parks and Nature Reserves unless it is permitted by subclause (2) or (3).

11 Zone E2 Environmental Conservation

- (1) The objectives of Zone E2 Environmental Conservation are as follows:
 - (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
 - (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone E2 Environmental Conservation:
environmental protection works.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E2 Environmental Conservation:
drainage; earthworks; environmental facilities; flood mitigation works; roads; signage.
- (4) Except as otherwise provided by this Part, development for any of the following purposes is prohibited on land within Zone E2 Environmental Conservation:
business premises; hotel or motel accommodation; industries; multi dwelling housing; recreation facilities (major); residential flat buildings; retail premises; service stations; warehouse or distribution centres; any other development not specified in subclause (2) or (3).

12 Additional permitted uses

- (1) Despite any other provision of this Part, development for the following purposes may be carried out on the following land with development consent:
 - (a) bed and breakfast accommodation, dwelling houses, home-based child care, home businesses, home industries and information and education facilities—on land within 20 metres of the following buildings:
 - (i) “Wallarah House”, 1a Keene Street, being Part Lot 103, DP 1129872, as shown hatched and labelled “1” on the Additional Permitted Uses Map,
 - (ii) “Jetty Master’s Cottage”, Part Lot 103, DP 1129872 and Part Lot 1, DP 1151628, as shown hatched and labelled “2” on the Additional Permitted Uses Map,
 - (b) recreation areas—on land known as the “Village Park” and the “Coastal Walkway”, as shown hatched and labelled “3” and “4”, respectively, on the Additional Permitted Uses Map.
- (2) Despite any other provision of this Part, development for the purpose of home occupations may be carried out without development consent on land within 20 metres of the following buildings:
 - (a) “Wallarah House”, 1a Keene Street, being Part Lot 103, DP 1129872, as shown hatched and labelled “1” on the Additional Permitted Uses Map,
 - (b) “Jetty Master’s Cottage”, Part Lot 103, DP 1129872 and Part Lot 1, DP 1151628, as shown hatched and labelled “2” on the Additional Permitted Uses Map.

13 Prohibited development

Development on land within the South Wallarah Peninsula site that is part of a project to which Part 3A of the Act applies is prohibited if it would be prohibited were it development to which Part 4 of the Act applies.

14 Subdivision—consent requirements

- (1) Land within the South Wallarah Peninsula 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) 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.

15 Height of buildings

- (1) The objectives of this clause are as follows:
 - (a) to ensure that development has an appropriate scale and height in relation to its landscape setting,
 - (b) to ensure that development in areas within close proximity to Catherine Hill Bay has an appropriate scale and height in relation to its heritage setting,
 - (c) to ensure that building heights do not adversely impact on the amenity of residents and people using the public domain.
- (2) The height of a building on any land within the South Wallarah Peninsula site is not to exceed the maximum height shown for the land on the Height of Buildings 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 on land within the South Wallarah Peninsula 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.

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- (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.
- (3) Despite subclause (1), consent must not be granted to any development that would contravene clause 15.

17 Exceptions to development standards—other development

- (1) This clause applies to development on land within the South Wallarah Peninsula site, 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) Development 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) Development 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.

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- (5) Development consent must not be granted for development that contravenes a development standard unless:
- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (4), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
- (6) In deciding whether to grant concurrence, the Director-General must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (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 one of the following:
- (a) a development standard for complying development,
 - (b) a development standard that arises, under the Regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated,
 - (c) clause 15.

18 Controls relating to miscellaneous uses

(1) Bed and breakfast accommodation

Development for the purposes of bed and breakfast accommodation on land within the South Wallarah Peninsula site

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must not involve the provision of more than 3 bedrooms for accommodation for guests.

(2) **Home businesses**

Development for the purposes of a home business on land within the South Wallarah Peninsula site must not involve the use of more than 30 square metres of floor area for the carrying on of the business.

(3) **Home industries**

Development for the purposes of a home industry on land within the South Wallarah Peninsula site must not involve the use of more than 30 square metres of floor area for the carrying on of the light industry.

(4) **Neighbourhood shops**

Development for the purposes of a neighbourhood shop on land within the South Wallarah Peninsula site must not result in a combined retail floor area of all neighbourhood shops on that land of more than 750 square metres.

19 **Development within the coastal zone**

(1) The objectives of this clause are as follows:

- (a) to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,
- (b) to implement the principles in the NSW Coastal Policy, and in particular to:
 - (i) protect, enhance, maintain and restore the coastal environment, its associated ecosystems, ecological processes and biological diversity and its water quality, and
 - (ii) protect and preserve the natural, cultural, recreational and economic attributes of the NSW coast, and
 - (iii) provide opportunities for pedestrian public access to and along the coastal foreshore, and
 - (iv) recognise and accommodate coastal processes and climate change, and
 - (v) protect amenity and scenic quality, and
 - (vi) protect and preserve rock platforms, beach environments and beach amenity, and

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- (vii) protect and preserve native coastal vegetation, and
 - (viii) protect and preserve the marine environment, and
 - (ix) ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and
 - (x) ensure that decisions in relation to new development consider the broader and cumulative impacts on the catchment, and
 - (xi) protect Aboriginal cultural places, values and customs, and
 - (xii) protect and preserve items of heritage, archaeological or historical significance.
- (2) Development consent must not be granted to development on land within the South Wallarah Peninsula site that is wholly or partly within the coastal zone unless the consent authority has considered:
- (a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:
 - (i) maintaining existing public access and, where possible, improving that access, and
 - (ii) identifying opportunities for new public access, and
 - (b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:
 - (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and
 - (ii) the location, and
 - (iii) the bulk, scale, size and overall built form design of any building or work involved, and
 - (c) the impact of the proposed development on the amenity of the coastal foreshore, including:
 - (i) any significant overshadowing of the coastal foreshore, and
 - (ii) any loss of views from a public place to the coastal foreshore, and
 - (d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and

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- (e) how biodiversity and ecosystems, including:
 - (i) native coastal vegetation and existing wildlife corridors, and
 - (ii) rock platforms, and
 - (iii) water quality of coastal waterbodies, and
 - (iv) native fauna and native flora, and their habitats, can be conserved, and
 - (f) the effect of coastal processes and coastal hazards and potential impacts, including sea level rise:
 - (i) on the proposed development, and
 - (ii) arising from the proposed development, and
 - (g) the cumulative impacts of the proposed development and other development on the coastal catchment.
- (3) Development consent must not be granted to development on land within the South Wallarah Peninsula site that is wholly or partly within the coastal zone unless the consent authority is satisfied that:
- (a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and
 - (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and
 - (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform.

20 Architectural roof features

- (1) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 15 may be carried out, but only with consent.
- (2) Development consent must not be granted to any such development unless the consent authority is satisfied that:
 - (a) the architectural roof feature:
 - (i) comprises a decorative element on the uppermost portion of a building, and
 - (ii) is not an advertising structure, and

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- (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
 - (iv) will cause minimal overshadowing, and
 - (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

21 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 by the Director-General.
Note. A 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 council.
- (4) The refusal by the council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the council to grant consent for the carrying out of the activity for which a permit was sought.
- (5) This clause does not apply to a tree or other vegetation that the council is satisfied is dying or dead and is not required as the habitat of native fauna.
- (6) This clause does not apply to a tree or other vegetation that the council is satisfied is a risk to human life or property.
- (7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation that is or forms part of a heritage item.
Note. As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 22 will be applicable to any such consent.

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- (8) 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 and Spatial Information Act 2002*, or
 - (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

22 Heritage conservation

(1) Requirement for consent

Development consent is required for any of the following:

- (a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
- (c) altering a heritage item that is a building by making structural changes to its interior,
- (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (e) disturbing or excavating a heritage conservation area that is a place of Aboriginal heritage significance,
- (f) erecting a building on land on which a heritage item is located or that is within a heritage conservation area,
- (g) subdividing land on which a heritage item is located or that is within a heritage conservation area.

(2) When consent is not required

However, consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature, or is for the maintenance of the heritage item, or a building, work, relic, tree or place within the heritage conservation area, and
 - (ii) would not adversely affect the significance of the heritage item, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development:
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving and repairing monuments or grave markers, and
 - (ii) would not cause a disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to a place of Aboriginal heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the relevant council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

(3) Effect on heritage significance

The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (4) or a heritage conservation management plan is submitted under subclause (5).

(4) Heritage impact assessment

The consent authority may, before granting consent to any development on land:

- (a) on which a heritage item is situated, or
- (b) within a heritage conservation area, or

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- (c) within the vicinity of land referred to in paragraph (a) or (b),

require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(5) **Heritage conservation management plans**

The consent authority may require, after considering the significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

Environmental heritage table

Suburb	Item name	Address	Property description	Significance	Item number
Catherine Hill Bay	Wallarah House	1a Keene Street	Lots 102 and 103, DP 1129872; Lot 1, DP 1151628	Local	1
Catherine Hill Bay	Catherine Hill Bay Colliery Railway		Lots 101, 103 and 104, DP 1129872; Lot 1, DP 1151628	Local	2

23 Arrangements for designated State public infrastructure

- (1) This clause applies to land within the South Wallarah Peninsula site, 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).
- (2) The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of the land to which this clause applies to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.
- (3) Land to which this clause applies must not be subdivided if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before 1 September 2008, unless the Director-General has certified in writing to the consent

authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.

- (4) Subclause (3) does not apply in relation to:
- (a) any lot identified in the certificate as a residue lot, or
 - (b) any lot created by a previous subdivision of land in accordance with this clause, or
 - (c) any lot that is proposed to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities, or any other public purpose, or
 - (d) a subdivision for the purpose only of rectifying an encroachment on any existing lot.
- (5) In this clause, *designated State public infrastructure* means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds:
- (a) State and regional roads,
 - (b) land required for regional open space,
 - (c) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

24 Public utility infrastructure

- (1) Development consent must not be granted for development on land within the South Wallarah Peninsula site unless the relevant council 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 it is required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.
- (3) 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 disposal and management of sewage.

25 Infrastructure development and use of existing buildings of the Crown

- (1) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development 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 Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

26 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 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 Map	Authority of the State
Zone E1 National Parks and Nature Reserves	Minister administering the <i>National Parks and Wildlife Act 1974</i>

Note. If land, other than land specified in the Table to subclause (2), 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 under this clause. 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.

27 Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Part 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
 - (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).

28 Mining, petroleum production and extractive industries

This Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*.

29 Development control plan

- (1) The objective of this clause is to ensure that development on land within Zone R2 Low Density Residential occurs in a logical and

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cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.

- (2) Development consent must not be granted for development on land within Zone R2 Low Density Residential unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.
- (3) The development control plan must provide for all of the following:
 - (a) a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,
 - (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
 - (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
 - (d) a network of passive and active recreational areas,
 - (e) stormwater and water quality management controls,
 - (f) amelioration of natural and environmental hazards, including bushfire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,
 - (g) detailed urban design controls for significant development sites,
 - (h) measures to accommodate and control appropriate neighbourhood commercial and retail uses,
 - (i) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.
- (4) Subclause (2) does not apply to any of the following development:
 - (a) a subdivision of land if any of the lots proposed to be created is to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose,

- (b) a subdivision of land in a zone in which the erection of structures is prohibited,
 - (c) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.
- (5) Development on the following land must satisfy the requirements of the *Lake Macquarie Development Control Plan No 1*, adopted by the Council on 23 November 2009, unless a development control plan is prepared for the land in accordance with this clause:
- (a) Lot 1, DP 163 Section K,
 - (b) Lot 2, DP 163 Section I.

1.2 Lake Macquarie Local Environmental Plan 2004

Clause 2 Land to which plan applies

Omit clause 2 (3). Insert instead:

- (3) This plan does not apply to the land within the South Wallarah Peninsula site and to which Schedule 3 of the *State Environmental Planning Policy (Major Development) 2005* applies.

1.3 Wyong Local Environmental Plan 1991

Clause 3 Land to which plan applies

Omit clause 3 (2). Insert instead:

- (2) This plan does not apply to the land within the South Wallarah Peninsula site and to which Schedule 3 of the *State Environmental Planning Policy (Major Development) 2005* applies.