



New South Wales

State Environmental Planning Policy (Major Development) Amendment (Transfer of Planning Controls) 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*. (S10/03559)

TONY KELLY, MLC
Minister for Planning

State Environmental Planning Policy (Major Development) Amendment (Transfer of Planning Controls) 2010

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Major Development) Amendment (Transfer of Planning Controls) 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- (1) This Policy is repealed on the day following the day on which this Policy commences.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 Parts 7, 11, 13 and 17–19.

[2] **Schedule 3, Map 5**

Omit the map (including the heading to the map).

1.2 Bankstown Local Environmental Plan 2001

Part 15

Insert after Part 14:

Part 15 Potts Hill Reservoirs site

Division 1 Preliminary

66 Application of Part

- (1) This Part applies to the land identified on the Land Application Map, referred to in this Part as the *Potts Hill Reservoirs site*.
- (2) No other provision of this plan (except clause 5) applies to the land to which this Part applies.

67 Interpretation

- (1) In this Part:
 - Floor Space Ratio Map* means the Bankstown Local Environmental Plan 2001—Potts Hill Reservoirs site—Floor Space Ratio Map.
 - Height of Buildings Map* means the Bankstown Local Environmental Plan 2001—Potts Hill Reservoirs site—Height of Buildings Map.
 - Land Application Map* means the Bankstown Local Environmental Plan 2001—Potts Hill Reservoirs site—Land Application Map.
 - Land Zoning Map* means the Bankstown Local Environmental Plan 2001—Potts Hill Reservoirs site—Land Zoning Map.

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- (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.

68 Relationship with other environmental planning instruments

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

69 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.

Division 2 Provisions applying to development within Potts Hill Reservoirs site

70 Land use zones

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

- (a) Zone R2 Low Density Residential,
- (b) Zone R3 Medium Density Residential,
- (c) Zone B7 Business Park,
- (d) Zone RE1 Public Recreation.

71 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.

72 Zone R2 Low Density Residential

- (1) The objectives of Zone R2 Low Density Residential are as follows:
 - (a) to provide for the housing needs of the community within a low density residential environment, and
 - (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R2 Low Density Residential:
environmental protection works; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R2 Low Density Residential:
attached dwellings; boarding houses; child care centres; community facilities; dual occupancies; dwelling houses; environmental facilities; group homes; home-based child care; home businesses; kiosks; neighbourhood shops; places of public worship; recreation areas; roads; semi-detached dwellings; seniors housing.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R2 Low Density Residential unless it is permitted by subclause (2) or (3).

73 Zone R3 Medium Density Residential

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

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

74 Zone B7 Business Park

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

75 Zone RE1 Public Recreation

- (1) The objectives of Zone RE1 Public Recreation are as follows:
 - (a) to enable land to be used for open space or recreational purposes,

- (b) to provide a range of recreational settings and activities and compatible land uses,
 - (c) to protect and enhance the natural environment for recreational purposes.
- (2) Development for the purpose of environmental protection works is permitted without development consent on land within Zone RE1 Public Recreation.
- (3) Development for the following purposes is permitted only with development consent on land within Zone RE1 Public Recreation:
- community facilities; environmental facilities; kiosks; recreation areas; roads.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone RE1 Public Recreation unless it is permitted by subclause (2) or (3).

76 Temporary use of land

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Part, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that:
- (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this plan and any other applicable environmental planning instrument, and
 - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
 - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
 - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

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- (4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.
- (5) Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).

77 Height of buildings

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

78 Floor space ratio

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

79 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 Part 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.
- (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 development standard for complying development.

80 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, by or on behalf of a public authority, that is permitted to be carried out with or without consent, or that is exempt development, under the *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

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81 Controls relating to miscellaneous permissible uses

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

82 Savings provision relating to pending applications

A development application that has been made but not finally determined before the commencement of this Part must be determined as if *State Environmental Planning Policy (Major Development) Amendment (Transfer of Planning Controls) 2010* had not commenced.

1.3 Blacktown Local Environmental Plan 1988

Part 4

Insert after Part 3:

Part 4 Doonside Residential Precinct

Division 1 Preliminary

53 Application of Part

- (1) This Part applies to the land identified on the Land Application Map, referred to in this Part as the ***Doonside Residential Precinct site***.
- (2) No other provision of this plan (except clauses 7, 9A and 9B and Schedules 6 and 7) applies to the land to which this Part applies.

54 Interpretation

- (1) In this Part:
 - exhibition centre* means a building or place, associated with an exhibition village, used for house and land sales, site offices, advisory services, car parking, food and drink sales and other associated purposes.
 - Land Application Map* means the Blacktown Local Environmental Plan 1988—Doonside Residential Precinct site—Land Application Map.
 - Land Zoning Map* means the Blacktown Local Environmental Plan 1988—Doonside Residential Precinct site—Land Zoning Map.
- (2) A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* unless it is otherwise defined in this Part.

55 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 form or paper form, or both.

56 Relationship with other environmental planning instruments

The only environmental planning instruments that apply, according to their terms, to land within the Doonside Residential Precinct site are this Part and all other State Environmental Planning Policies except *State Environmental Planning Policy No 1—Development Standards*.

**Division 2 Provisions relating to development within
Doonside Residential Precinct site**

57 Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land within the Doonside Residential Precinct site to be carried out in accordance with this plan 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).

58 Land use zones

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

- (a) Zone R1 General Residential,
- (b) Zone SP2 Infrastructure,
- (c) Zone RE1 Public Recreation,
- (d) Zone E3 Environmental Management.

59 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.

60 Zone R1 General Residential

- (1) The objectives of Zone R1 General Residential are as follows:
 - (a) to provide for the housing needs of the community,
 - (b) to provide for a variety of housing types and densities,
 - (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents,
 - (d) to protect the heritage significance of the site,
 - (e) to protect and enhance the natural environment for recreational purposes,
 - (f) to promote ecologically sustainable development.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R1 General Residential:
home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R1 General Residential:
attached dwellings; boarding houses; car parks; child care centres; community facilities; dwelling houses; environmental protection works; exhibition homes; exhibition villages; group homes; hostels; multi dwelling housing; neighbourhood shops; places of public worship; recreation areas; residential care facilities; residential flat buildings; roads; semi-detached dwellings; seniors housing; shop top housing.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R1 General Residential unless it is permitted by subclause (2) or (3).

61 Zone SP2 Infrastructure

- (1) The objectives of Zone SP2 Infrastructure are as follows:
 - (a) to provide for infrastructure and related uses,
 - (b) to prevent development that is not compatible with or that may detract from the provision of infrastructure.

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- (2) Development for any of the following purposes is permitted only with development consent on land within Zone SP2 Infrastructure:
the purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.
- (3) Except as otherwise provided by this Part, development is prohibited on land within Zone SP2 Infrastructure unless it is permitted by subclause (2).

62 Zone RE1 Public Recreation

- (1) The objectives of Zone RE1 Public Recreation 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 recreation purposes.
- (2) Development for any of the following purposes is permitted only with development consent on land within Zone RE1 Public Recreation:
community facilities; environmental facilities; environmental protection works; kiosks; recreation areas; roads.
- (3) Except as otherwise provided by this Part, development is prohibited on land within Zone RE1 Public Recreation unless it is permitted by subclause (2).

63 Zone E3 Environmental Management

- (1) The objectives of Zone E3 Environmental Management are as follows:
 - (a) to protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values,
 - (b) to provide for a limited range of development that does not have an adverse effect on those values.
- (2) Development for any of the following purposes is permitted only with development consent on land within Zone E3 Environmental Management:
community facilities; dwelling houses; environmental protection works; kiosks; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); roads.

- (3) Except as otherwise provided by this Part, development is prohibited on land within Zone E3 Environmental Management unless it is permitted by subclause (2).

64 Interim land use for exhibition centres

- (1) Despite any other provision of this Part, development consent may be granted for development on land within Zone RE1 Public Recreation or Zone E3 Environmental Management for an exhibition centre for a maximum period of 8 years.
- (2) Development consent must not be granted unless the consent authority is satisfied that:
- (a) the use will not prejudice the subsequent carrying out of development on the land in accordance with this Part and any other applicable environmental planning instrument, and
 - (b) the use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
 - (c) the use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land or increase the risk of natural hazards that may affect the land.

65 Subdivision—consent requirements

- (1) Land within the Doonside Residential Precinct site may be subdivided, but only with development consent.
- (2) However, development consent is not required for a subdivision for the purpose only of one or more of the following:
- (a) widening a public road,
 - (b) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
 - (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional buildings,
 - (d) a consolidation of lots that does not create additional lots or the opportunity for additional buildings,
 - (e) rectifying an encroachment on a lot,
 - (f) creating a public reserve,

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- (g) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

66 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 Part 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.

- (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) Consent must not be granted under this clause for a subdivision of land in Zone E3 Environmental Management if:
 - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
 - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (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 (3).
- (8) This clause does not allow consent to be granted for development that would contravene any 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.

67 Heritage conservation

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item:
 - (a) demolish, dismantle, move or alter the building, work, relic, tree or place, or
 - (b) damage or remove the relic, or
 - (c) excavate land for the purpose of discovering, exposing or moving the relic, or
 - (d) damage or despoil the tree or place, or

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- (e) erect a building on, or subdivide, land on which the building, work or relic is situated or that comprises the place, or
 - (f) damage any tree or land on which the building, work or relic is situated on or on the land which comprises the place, or
 - (g) make structural changes to the interior of the building or work,
- except with the consent of the consent authority.
- (2) The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is located, even though development for that purpose would otherwise not be allowed by this Part, if the consent authority is satisfied that:
 - (a) the conservation of the heritage item is facilitated by the granting of consent, and
 - (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and
 - (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and
 - (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
 - (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.
 - (3) Consent is not required under this clause if 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:
 - (a) is of a minor nature, or is for the maintenance of the heritage item, and
 - (b) would not adversely affect the significance of the heritage item.
 - (4) In this clause, **heritage item** means an item of heritage that is:
 - (a) subject to an interim heritage order under the *Heritage Act 1977*, or
 - (b) listed on the State Heritage Register under that Act.

68 Bush fire hazard reduction

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without consent.

Note. The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

69 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.

70 Savings provision relating to pending applications

A development application that has been made but not finally determined before the commencement of this Part must be determined as if *State Environmental Planning Policy (Major Development) Amendment (Transfer of Planning Controls) 2010* had not commenced.

1.4 Orange Local Environmental Plan 2000

Part 15

Insert after Part 14:

Part 15 Bloomfield site

Division 1 Preliminary

88 Application of Part

- (1) This Part applies to the land identified on the Land Application Map, referred to in this Part as the *Bloomfield site*.
- (2) No other provision of this plan (except clause 5) applies to the land to which this Part applies.

89 Interpretation

- (1) In this Part:

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Floor Space Ratio Map means the Orange Local Environmental Plan 2000—Bloomfield site—Floor Space Ratio Map.

Height of Buildings Map means the Orange Local Environmental Plan 2000—Bloomfield site—Height of Buildings Map.

Land Application Map means the Orange Local Environmental Plan 2000—Bloomfield site—Land Application Map.

Land Zoning Map means the Orange Local Environmental Plan 2000—Bloomfield site—Land Zoning Map.

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

90 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.

91 Relationship with other environmental planning instruments

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

**Division 2 Provisions relating to development in
Bloomfield site**

92 Land use zones

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

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

93 Objectives of land use zones to be taken into account

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land in the zone.

94 Zone R2 Low Density Residential

- (1) The objectives of Zone R2 Low Density Residential are as follows:
 - (a) to provide for the housing needs of the community in a low density residential environment,
 - (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents.
- (2) Development for any of the following purposes is permitted without consent on land within Zone R2 Low Density Residential:
environmental protection works; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R2 Low Density Residential:
attached dwellings; dwelling houses; exhibition villages; group homes; recreation facilities (outdoor); roads; semi-detached dwellings; seniors housing.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R2 Low Density Residential unless it is permitted by subclause (2) or (3).

95 Zone B4 Mixed Use

- (1) The objectives of Zone B4 Mixed Use are as follows:
 - (a) to provide a mixture of compatible land uses,

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- (b) to integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- (2) Development for any of the following purposes is permitted without consent on land in Zone B4 Mixed Use:
nil.
- (3) Development for any of the following purposes is permitted only with development consent on land in Zone B4 Mixed Use:
attached dwellings; boarding houses; business premises; child care centres; community facilities; dwelling houses; educational establishments; entertainment facilities; function centres; hotel or motel accommodation; information and education facilities; multi dwelling housing; office premises; passenger transport facilities; recreation facilities (indoor); registered clubs; retail premises; roads; shop top housing.
- (4) Except as otherwise provided by this Part, development is prohibited on land in Zone B4 Mixed Use unless it is permitted by subclause (2) or (3).

96 Zone SP2 Infrastructure

- (1) The objectives of Zone SP2 Infrastructure are as follows:
 - (a) to provide for infrastructure and related uses,
 - (b) to prevent development that is not compatible with or that may detract from the provision of infrastructure.
- (2) Development for any of the following purposes is permitted without consent on land in Zone SP2 Infrastructure:
roads.
- (3) Development for any of the following purposes is permitted only with development consent on land in Zone SP2 Infrastructure:
the purpose shown on the Land Zoning Map including any development that is ordinarily incidental or ancillary to development for that purpose.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone SP2 Infrastructure unless it is permitted by subclause (2) or (3).

97 Subdivision—consent requirements

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

- (2) However, development consent is not required for a subdivision for the purpose only of any one or more of the following:
- (a) widening a public road,
 - (b) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
 - (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional buildings,
 - (d) a consolidation of lots that does not create additional lots or the opportunity for additional buildings,
 - (e) rectifying an encroachment on a lot,
 - (f) creating a public reserve,
 - (g) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

98 Minimum subdivision lot size

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

99 Height of buildings

- (1) The objectives of this clause are as follows:
- (a) to establish a maximum height limit in which buildings can be designed,

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- (b) to ensure the height of buildings complements the streetscape and character of the area in which the buildings are located,
 - (c) to ensure the height of buildings protects the amenity of neighbouring properties in terms of visual bulk, access to sunlight, privacy and views.
- (2) The height of a building on land within the Bloomfield site is not to exceed the maximum height shown for the land on the Height of Buildings Map.

100 Floor space ratio

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

101 Retail premises in Zone B4 Mixed Use

- (1) The objectives of this clause are as follows:
- (a) to provide opportunities for retailing within Zone B4 Mixed Use that will not adversely affect the economic sustainability of Orange CBD,
 - (b) to set a maximum retail floor space for development in Area 2 shown on the Floor Space Ratio Map,
 - (c) to prohibit retail premises in Area 1 shown on the Floor Space Ratio Map.
- (2) Despite clauses 95 and 100:
- (a) retail floor space for all development on land within Zone B4 Mixed Use and in Area 2 shown on the Floor Space Ratio Map must not exceed 1,500 square metres, and

- (b) development for retail premises is prohibited on land within Zone B4 Mixed Use and in Area 1 shown on the Floor Space Ratio Map.

102 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 Part 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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- (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 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.

103 Public utility infrastructure

- (1) Development consent must not be granted for development on land within the Bloomfield site unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is 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 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.

104 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, by or on

behalf of a public authority, that is permitted to be carried out with or without consent, or that is exempt development, under *State Environmental Planning Policy (Infrastructure) 2007*.

- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

105 Bush fire hazard reduction

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without consent.

Note. The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

106 Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land within the Bloomfield site to be carried out in accordance with this plan 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).

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107 Savings provision relating to pending applications

A development application that has been made but not finally determined before the commencement of this Part must be determined as if *State Environmental Planning Policy (Major Development) Amendment (Transfer of Planning Controls) 2010* had not commenced.

1.5 Shellharbour Rural Local Environmental Plan 2004

Part 4

Insert after Part 3:

Part 4 Illawarra Regional Business Park site

Division 1 Preliminary

65 Land to which Part applies

- (1) This Part applies to the land identified on the Land Application Map, referred to in this Part as the *Illawarra Regional Business Park site*.
- (2) No other provision in this plan (except clauses 6 and 11) applies to the land to which this Part applies.

66 Interpretation

- (1) In this Part:
 - Airport Height Limitation Plan* means the plan titled *Airport Height Limitation and Noise Exposure Forecast Plan*, 17 April 1998, specifying the obstacle limitation surface for the land and held in the office of the Council.
 - Height of Buildings Map* means the Shellharbour Rural Local Environmental Plan 2004—Illawarra Regional Business Park site—Height of Buildings Map.
 - Land Application Map* means the Shellharbour Rural Local Environmental Plan 2004—Illawarra Regional Business Park site—Land Application Map.
 - Land Reservation Acquisition Map* means the Shellharbour Rural Local Environmental Plan 2004—Illawarra Regional Business Park site—Land Reservation Acquisition Map.
 - Land Zoning Map* means the Shellharbour Rural Local Environmental Plan 2004—Illawarra Regional Business Park site—Land Zoning Map.

wetland improvement means the creation, enhancement, regeneration or maintenance of wetlands whether the wetland is natural or artificial and whether or not the wetland forms part of an integrated drainage system.

- (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.

67 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.

68 Relationship with other environmental planning instruments

The only environmental planning instruments that apply, according to their terms, to land within the Illawarra Regional Business Park site are this Part and all State environmental planning policies, except *State Environmental Planning Policy No 1—Development Standards*.

Division 2 Provisions applying to development within Illawarra Regional Business Park site

69 Land use zones

- (1) For the purposes of this Part, land within the Illawarra Regional Business Park site is in a zone as follows if the land is shown on the Land Zoning Map as being within that zone:
- (a) Zone IN2 Light Industrial,

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- (b) Zone SP2 Infrastructure,
 - (c) Zone E2 Environmental Conservation.
- (2) The consent authority must have regard to the objectives for development within a zone when determining a development application in respect of land within the zone.

70 Zone IN2 Light Industrial

- (1) The objectives of Zone IN2 Light Industrial are as follows:
- (a) to facilitate development for a wide range of employment generating light industrial purposes,
 - (b) to provide for airport related facilities and services, including hotel or motel accommodation and passenger transport facilities,
 - (c) to provide for roads and service stations, warehouse or distribution centres and information and education facilities,
 - (d) to enable other land uses that provide facilities or services to meet the day to day needs of workers in the area,
 - (e) to minimise any adverse effect of industry on other land uses and the environment.
- (2) Development for the following purposes is permitted without development consent on land within Zone IN2 Light Industrial: environmental protection works.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone IN2 Light Industrial:
- airports; child care centres; depots; fill; flood mitigation works; food and drink premises; freight transport facilities; helipads; heliports; hotel or motel accommodation; industrial retail outlets; information and education facilities; landscape and garden supplies; light industries; liquid fuel depots; neighbourhood shops; office premises (that are ancillary to development for another permitted purpose); passenger transport facilities; public administration buildings; recreation facilities (indoor); roads; service stations; signage; timber and building supplies; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; vehicle sales or hire premises; veterinary hospitals; warehouse or distribution centres.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone IN2 Light Industrial unless it is permitted by subclause (2) or (3).

71 Zone SP2 Infrastructure

- (1) The objectives of Zone SP2 Infrastructure are as follows:
- (a) to provide for infrastructure and related uses,
 - (b) to prevent development that is not compatible with or that may detract from the provision of infrastructure,
 - (c) to protect the infrastructure of Illawarra Regional Airport.
- (2) Development for the following purposes is permitted without development consent on land within Zone SP2 Infrastructure:
drainage; fencing.
- (3) Development for the following purposes is permitted only with development consent on land within Zone SP2 Infrastructure:
the purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; roads.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone SP2 Infrastructure unless it is permitted by subclause (2) or (3).

72 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 the following purposes is permitted without development consent on land within Zone E2 Environmental Conservation:
environmental protection works.
- (3) Development for the following purposes is permitted only with development consent on land within Zone E2 Environmental Conservation:
earthworks; environmental facilities; recreation areas; roads; wetland improvements.

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- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone E2 Environmental Conservation unless it is permitted by subclause (2) or (3).

73 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, by or on behalf of a public authority, that is permitted to be carried out with or without consent, or that is exempt development, under *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

74 Subdivision—consent requirements

- (1) Land within the Illawarra Regional Business Park 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 buildings,
 - (c) a consolidation of lots that does not create additional lots or the opportunity for additional buildings,
 - (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.

75 Height of buildings

- (1) The objectives of this clause are as follows:
- (a) to regulate the height of buildings on land in the Illawarra Regional Business Park site,
 - (b) to ensure that the effective and on-going operation of Illawarra Regional Airport is not compromised by any development,
 - (c) to protect the views to and from “Ravensthorpe” at 52–56 Tongarra Road, Albion Park, being a heritage item.

- (2) The height of a building on any land within the Illawarra Regional Business Park site is not to exceed the maximum height shown for the land on the:
 - (a) Height of Buildings Map, or
 - (b) Airport Height Limitation Plan,whichever is the lesser.
- (3) Despite subclause (2), development consent may be granted for development that exceeds the maximum height for the land if:
 - (a) the consent authority is satisfied that the proposed building is unlikely to adversely affect the views to and from “Ravensthorpe” as referred to in subclause (1) (c), and
 - (b) the consent authority is satisfied that the proposed building is unlikely to constitute an obstruction or hazard to aircraft flying in the vicinity, and
 - (c) the proposed building does not comply with the Airport Height Limitation Plan, the Civil Aviation Safety Authority has been given notice of the proposal and any comments made by it to the consent authority within 28 days of its being notified have been taken into consideration by the consent authority.

76 Floor space ratio

The floor space ratio for a building on any land in the Illawarra Regional Business Park site is not to exceed 1:1.

77 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 Part 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.

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- (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 the consent authority is satisfied that:
 - (a) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (b) 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.
- (5) 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).
- (6) This clause does not allow consent to be granted for development that would contravene any 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.

78 Controls relating to miscellaneous permissible uses

(1) **Industrial retail outlets**

If development for the purposes of an industrial retail outlet is permitted on any land within the Illawarra Regional Business Park site, the retail floor area must not exceed:

- (a) 40% 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 on any land within the Illawarra Regional Business Park site, the retail floor area must not exceed 80 square metres.

79 Controls relating to office premises

The consent authority must not grant development consent to development for the purpose of office premises on land within the Illawarra Regional Business Park site unless it is satisfied that:

- (a) the office premises are ancillary to another use of the land, and
- (b) the gross floor area of the office premises will not exceed 25% of the gross floor area of all of the buildings on the land.

80 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

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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
---	------------------------

Zone SP2 Infrastructure and marked “Airport”	Council
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- (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.

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*).

81 Zone IN2 Light Industrial—satisfactory arrangements for the provision of regional transport infrastructure and services

- (1) This clause applies to land within Zone IN2 Light Industrial within the Illawarra Regional Business Park 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 object of this clause is to require assistance to authorities of the State towards the provision of designated State public infrastructure to satisfy needs that arise from development on land to which this clause applies.
- (3) Despite any other provision of this Part, the consent authority must not consent to the subdivision of 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 designated State public infrastructure in relation to the land to which this clause applies.
- (4) 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.

- (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) bus interchanges and bus lanes,
 - (c) rail infrastructure and land,
 - (d) land required for regional open space,
 - (e) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

82 Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land within the Illawarra Regional Business Park site to be carried out in accordance with this plan 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, before the making of this clause, the Governor approved of subclauses (1)–(3).
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83 Savings provision relating to pending applications

A development application that has been made but not finally determined before the commencement of this Part must be determined as if *State Environmental Planning Policy (Major Development) Amendment (Transfer of Planning Controls) 2010* had not commenced.

1.6 South Sydney Local Environmental Plan 1998

Part 5

Insert after Part 4:

Part 5 Caritas site

Division 1 Preliminary

57 Land to which Part applies

- (1) This Part applies to the land identified on the Land Application Map, referred to in this Part as the *Caritas site*.
- (2) No other provision in this plan (except clause 4) applies to the land to which this Part applies.

58 Interpretation

- (1) In this Part:
 - Height of Buildings Map* means the South Sydney Local Environmental Plan 1998—Caritas site—Height of Buildings Map.
 - Heritage Map* means the South Sydney Local Environmental Plan 1998—Caritas site—Heritage Map.
 - Land Application Map* means the South Sydney Local Environmental Plan 1998—Caritas site—Land Application Map.
- (2) A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006* unless it is otherwise defined in this Part.

59 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.

Division 2 Provisions relating to development within Caritas site

60 Land use zones

Land within the Caritas site is within Zone B4 Mixed Use.

61 Objectives of land use zone to be taken into account

The consent authority must have regard to the objectives for development within Zone B4 Mixed Use when determining a development application in respect of land within that zone.

62 Zone B4 Mixed Use

- (1) The objectives of Zone B4 Mixed Use are as follows:
 - (a) to provide a mixture of compatible land uses,
 - (b) to maximise public transport patronage and encourage walking and cycling,
 - (c) to incorporate contemporary urban design principles in the design of new buildings and the interpretation of their relationship with the public domain and heritage buildings,
 - (d) to facilitate the conservation and adaptive reuse of items and areas of heritage significance,
 - (e) to promote mixed use planning by locating mutually supportive and compatible uses such as residential uses, places of employment and retail uses in close proximity to each other so as to minimise the need for travel by car.
- (2) Except as otherwise provided by this Division, development may be carried out with consent on land within Zone B4 Mixed Use.

63 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 Part 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.
- (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 development standard for complying development.

64 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, by or on behalf of a public authority, that is permitted to be carried out with or without consent, or that is exempt development, under *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

65 Subdivision—consent requirements

- (1) Land within the Caritas site 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) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
 - (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
 - (d) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
 - (e) rectifying an encroachment on a lot,
 - (f) creating a public reserve,

- (g) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public conveniences.

66 Height of buildings

- (1) Except as provided by subclause (2), the height of a building on any land within the Caritas site is not to exceed the maximum number of storeys shown for the land on the Height of Buildings Map.
- (2) If the Height of Buildings Map specifies, in relation to any land shown on that map, a Reduced Level for any building on that land, any such building is not to exceed the specified Reduced Level.
- (3) For the purposes of this clause (including the Height of Buildings Map), the *number of storeys* does not include any underground storey.

67 Floor space ratio

The floor space ratio for a building within the Caritas site is not to exceed 2.75:1.

68 Gross floor area restrictions

- (1) The maximum gross floor area of all buildings within the Caritas site is not to exceed 12,315 square metres.
- (2) Development that comprises:
 - (a) the erection of a new building, or
 - (b) a change of use of an existing building,must not be carried out if it would result in the total gross floor area of all business premises and retail premises on the Caritas site being less than 8% of the maximum gross floor area permitted by subclause (1).

69 Heritage conservation

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item:
 - (a) demolish, dismantle, move or alter the building, work, relic, tree or place, or
 - (b) damage or remove the relic, or
 - (c) excavate land for the purpose of discovering, exposing or moving the relic, or

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- (d) damage or despoil the tree or place, or
 - (e) erect a building on, or subdivide, land on which the building, work or relic is situated or that comprises the place, or
 - (f) damage any tree or land on which the building, work or relic is situated or that comprises the place, or
 - (g) make structural changes to the interior of the building or work,
- except with the consent of the consent authority.
- (2) However, consent under this clause is not required if 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:
 - (a) is of a minor nature, or is for the maintenance of the heritage item, and
 - (b) would not adversely affect the significance of the heritage item.
 - (3) In this clause, *heritage item* means a building, work, relic, tree or place that is indicated as a heritage item on the Heritage Map.

Division 3 Miscellaneous

70 Relationship with other environmental planning instruments

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

71 Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land within the Caritas site 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

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- (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).

72 Savings provision relating to pending applications

A development application that has been made but not finally determined before the commencement of this Part must be determined as if *State Environmental Planning Policy (Major Development) Amendment (Transfer of Planning Controls) 2010* had not commenced.