



New South Wales

State Environmental Planning Policy (Sydney Region Growth Centres) Amendment (Marsden Park Industrial Precinct) 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*. (S08/01862/PC)

TONY KELLY, MLC
Minister for Planning

State Environmental Planning Policy (Sydney Region Growth Centres) Amendment (Marsden Park Industrial Precinct) 2010

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Sydney Region Growth Centres) Amendment (Marsden Park Industrial Precinct) 2010*.

2 Commencement

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

3 Replacement of maps

Each map adopted by *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* that is specified in Column 1 of the following Table is declared by this Policy to be amended or replaced, as the case requires, by the map specified opposite in Column 2 of the Table as approved by the Minister on the making of this Policy.

Column 1	Column 2
Name of map being amended or replaced	Name of amending or replacement map
State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Development Control Map (SEPP_SRGC_NW_DVC_006_020_20090701)	State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Development Control Map (SEPP_SRGC_NW_DVC_006_020_20100701)
State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Floor Space Ratio Map (SEPP_SRGC_NW_FSR_005_020_20100330)	State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Floor Space Ratio Map (SEPP_SRGC_NW_FSR_005_020_20100726)
State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Floor Space Ratio Map (SEPP_SRGC_NW_FSR_006_020_20081203)	State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Floor Space Ratio Map (SEPP_SRGC_NW_FSR_006_020_20100726)

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State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Height of Buildings Map (SEPP_SRGC_NW_HOB_005_020_20100415)	State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Height of Buildings Map (SEPP_SRGC_NW_HOB_005_020_20100701)
State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Height of Buildings Map (SEPP_SRGC_NW_HOB_006_020_20081203)	State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Height of Buildings Map (SEPP_SRGC_NW_HOB_006_020_20100701)
State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Land Application Map (SEPP_SRGC_NW_LAP_005_020_20100330)	State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Land Application Map (SEPP_SRGC_NW_LAP_005_020_20100804)
State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Land Application Map (SEPP_SRGC_NW_LAP_006_020_20100330)	State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Land Application Map (SEPP_SRGC_NW_LAP_006_020_20100804)
State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Lot Size Map (SEPP_SRGC_NW_LSZ_005_020_20090731)	State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Lot Size Map (SEPP_SRGC_NW_LSZ_005_020_20100701)
State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Lot Size Map (SEPP_SRGC_NW_LSZ_006_020_20081203)	State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Lot Size Map (SEPP_SRGC_NW_LSZ_006_020_20100701)
State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Land Reservation Acquisition Map (SEPP_SRGC_NW_LRA_005_020_20100330)	State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Land Reservation Acquisition Map (SEPP_SRGC_NW_LRA_005_020_20100726)
State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Land Reservation Acquisition Map (SEPP_SRGC_NW_LRA_006_020_20100330)	State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Land Reservation Acquisition Map (SEPP_SRGC_NW_LRA_006_020_20100726)

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 Clause 3 Amendment (Marsden Park Industrial Precinct) 2010

Column 1	Column 2
Name of map being amended or replaced	Name of amending or replacement map
State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Land Zoning Map (SEPP_SRGC_NW_LZN_005_020_20100415)	State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Land Zoning Map (SEPP_SRGC_NW_LZN_005_020_20100804)
State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Land Zoning Map (SEPP_SRGC_NW_LZN_006_020_20090723)	State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Land Zoning Map (SEPP_SRGC_NW_LZN_006_020_20100804)
State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Native Vegetation Protection Map (SEPP_SRGC_NW_NVP_005_020_20100415)	State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Native Vegetation Protection Map (SEPP_SRGC_NW_NVP_005_020_20100701)
State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Native Vegetation Protection Map (SEPP_SRGC_NW_NVP_006_020_20081203)	State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Native Vegetation Protection Map (SEPP_SRGC_NW_NVP_006_020_20100701)
State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Precinct Boundary Map (SEPP_SRGC_NW_PCB_005_020_20100330)	State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Precinct Boundary Map (SEPP_SRGC_NW_PCB_005_020_20100701)
State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Riparian Protection Area Map (SEPP_SRGC_NW_RPN_005_020_20081203)	State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Riparian Protection Area Map (SEPP_SRGC_NW_RPN_005_020_20100701)
State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Riparian Protection Area Map (SEPP_SRGC_NW_RPN_006_020_20081203)	State Environmental Planning Policy (Sydney Region Growth Centres) 2006—North West Growth Centre Riparian Protection Area Map (SEPP_SRGC_NW_RPN_006_020_20100726)

4 Repeal of Policy

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

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Schedule 1 Amendment of State Environmental Planning Policy (Sydney Region
Growth Centres) 2006

Schedule 1 Amendment of State Environmental Planning Policy (Sydney Region Growth Centres) 2006

**[1] Clause 7 Controls applying to precincts after finalisation of precinct
planning process**

Insert at the end of the Table to the clause in Columns 1 and 2, respectively:

Marsden Park Industrial Precinct, North West Growth Appendix 5
Centre

[2] Clause 21 Land to which Part applies

Insert after clause 21 (4) (c):

(d) the Marsden Park Industrial Precinct.

[3] Appendix 5

Insert after Appendix 4:

Appendix 5 Marsden Park Industrial Precinct Plan

Part 1 Preliminary

Note. The *Standard Instrument (Local Environmental Plans) Order 2006* sets out matters to be included in standard local environmental plans. While this Precinct Plan is not a standard local environmental plan, it is generally consistent with standard plans. A number of clauses from the *Standard Instrument (Local Environmental Plans) Order 2006* have been included in this Precinct Plan and the clause numbering from that Order has been retained. This means that the numbering in this Precinct Plan may contain some gaps. Additional provisions have been inserted and are numbered accordingly.

1.1 Name of Precinct Plan

This Precinct Plan is the *Marsden Park Industrial Precinct Plan 2010*.

1.2 Aims of Precinct Plan

The aims of this Precinct Plan are as follows:

- (a) to make development controls for land in the Marsden Park Industrial Precinct within the North West Growth Centre that will ensure the creation of quality environments and good design outcomes,

- (b) to protect and enhance the environmentally sensitive natural areas in, and the cultural heritage of, the Precinct,
- (c) to provide for recreational opportunities within the Precinct,
- (d) to provide for multifunctional and innovative development in the Precinct that encourages employment and economic growth,
- (e) to promote housing choice and affordability in the Precinct,
- (f) to provide for the sustainable development of the Precinct,
- (g) to promote pedestrian and vehicle connectivity with adjoining Precincts and localities and within the Precinct.

1.3 Land to which Precinct Plan applies

This Precinct Plan applies to land within the Marsden Park Industrial Precinct as shown on the Land Application Map.

Note. The Land Application Map differs from the Precinct Boundary Map and, as such, this Precinct Plan does not apply to all the land within the Marsden Park Industrial Precinct (as shown on the Precinct Boundary Map).

1.4 Definition

In this Precinct Plan, *Council* means Blacktown City Council.

Note. The Dictionary at the end of this State Environmental Planning Policy defines words and expressions for the purposes of this Precinct Plan, including the relevant maps.

1.6 Consent authority

The consent authority for the purposes of this Precinct Plan is (subject to the Act) the Council.

1.8 Repeal of other local planning instruments applying to land

- (1) All local environmental plans and deemed environmental planning instruments applying only to the land to which this Precinct Plan applies are repealed.
- (2) All local environmental plans and deemed environmental planning instruments applying to the land to which this Precinct Plan applies and to other land cease to apply to the land to which this Precinct Plan applies.

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- (3) This clause does not affect the operation of other provisions of this State Environmental Planning Policy.

1.8A Savings provision relating to pending development applications

If a development application has been made before the commencement of this Precinct Plan in relation to land to which this Precinct Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Precinct Plan had not commenced.

1.9 Application of SEPPs

- (1) This Precinct Plan is subject to the provisions of any State environmental planning policy that prevails over this Precinct Plan as provided by section 36 of the Act.

Note. Section 36 of the Act generally provides that SEPPs prevail over LEPs and other instruments. However, an environmental planning instrument may (by an additional provision included in the instrument) displace or amend a SEPP or LEP to deal specifically with the relationship between the instrument and the SEPP or LEP.

- (2) The following State environmental planning policies (or provisions) do not apply to the land to which this Precinct Plan applies:

State Environmental Planning Policy No 1—Development Standards

State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development (clause 6 and Parts 3 and 4)

State Environmental Planning Policy No 60—Exempt and Complying Development

- (3) Subject to section 74 (1) of the Act, in the event of an inconsistency between this Precinct Plan and any other provision of this or any other environmental planning instrument whether made before or after the commencement of this Precinct Plan, this Precinct Plan prevails to the extent of the inconsistency.

Note. The other provisions of this State Environmental Planning Policy also contain provisions applying development controls to the North West Growth Centre, including the Marsden Park Industrial Precinct.

1.9A Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land within any zone to be carried out in accordance with this Precinct Plan or with a 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) Pursuant to section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).

Part 2 Permitted or prohibited development

2.1 Land use zones

The land use zones under this Precinct Plan are as follows:

Residential Zones

R2 Low Density Residential

R3 Medium Density Residential

Business Zones

B5 Business Development

B7 Business Park

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Industrial Zones

IN1 General Industrial

IN2 Light Industrial

Special Purpose Zones

SP2 Infrastructure

Recreation Zones

RE1 Public Recreation

Environment Protection Zones

E2 Environmental Conservation

2.2 Zoning of land to which Precinct Plan applies

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

2.3 Zone objectives and Land Use Table

- (1) The Land Use Table at the end of this Part specifies for each zone:
 - (a) the objectives for development, and
 - (b) development that may be carried out without consent, and
 - (c) development that may be carried out only with consent, and
 - (d) development that is prohibited.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.
- (3) In the Land Use Table at the end of this Part:
 - (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and
 - (b) a reference to a type of building or other thing does not include (despite any definition in this Policy) a reference to a type of building or other thing referred to separately in the Table in relation to the same zone.
- (4) This clause is subject to the other provisions of this Precinct Plan.

Notes.

- 1 Schedule 1 to this Appendix sets out additional permitted uses for particular land.
- 2 Schedule 1 to this Policy sets out exempt development (which is generally exempt from both Parts 4 and 5 of the Act). Development in the Land Use Table that may be carried out

without consent is nevertheless subject to the environmental assessment and approval requirements of Part 5 of the Act or, if applicable, Part 3A of the Act.

- 3 Schedule 2 to this Policy sets out complying development (for which a complying development certificate may be issued as an alternative to obtaining development consent).
- 4 Clause 2.6 requires consent for subdivision of land.
- 5 Part 5 contains other provisions which require consent for particular development.
- 6 Part 6 sets out additional permitted uses for particular land.

2.4 Unzoned land

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

2.5 Additional permitted uses for particular land

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

2.6 Subdivision—consent requirements

- (1) Land to which this Precinct Plan applies may be subdivided, but only with consent.
- (2) However, consent is not required for a subdivision for the purpose only of any one or more of the following:
 - (a) widening a public road,

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- (b) a minor realignment of boundaries that does not create:
 - (i) additional lots or the opportunity for additional dwellings, or
 - (ii) lots that are smaller than the minimum size shown on the Lot Size Map in relation to the land concerned,
- (c) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
- (d) rectifying an encroachment on a lot,
- (e) creating a public reserve,
- (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

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

2.6A Demolition

The demolition of a building or work may be carried out only with consent.

Note. The demolition of certain buildings and works is identified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* as exempt development.

2.6BB 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 Precinct Plan, 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 Precinct Plan and this or 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 site will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.
- (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).
- (6) This clause does not prescribe a development standard that may be varied under this Precinct Plan.

Land Use Table

Note. Part 6 of this Precinct Plan sets out local provisions which include additional permissible land uses and heads of consideration for assessment.

Zone R2 Low Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To allow people to carry out a reasonable range of activities from their homes, where such activities are not likely to adversely affect the living environment of neighbours.
- To support the well-being of the community, by enabling educational, recreational, community, religious and other activities where compatible with the amenity of a low density residential environment.

2 Permitted without consent

Home occupations

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3 Permitted with consent

Bed and breakfast accommodation; Business identification signs; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Earthworks; Educational establishments; Environmental protection works; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Home-based child care; Home businesses; Home industries; Neighbourhood shops; Places of public worship; Roads; Secondary dwellings; Semi-detached dwellings; Shop top housing; Swimming pools; Veterinary hospitals

4 Prohibited

Any development not specified in item 2 or 3

Zone R3 Medium Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To support the well-being of the community, by enabling educational, recreational, community, religious and other activities where compatible with the amenity of a medium density residential environment.

2 Permitted without consent

Home occupations

3 Permitted with consent

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Child care centres; Community facilities; Dual occupancies; Group homes; Multi dwelling housing; Neighbourhood shops; Places of public worship; Residential flat buildings; Roads; Semi-detached dwellings; Shop top housing; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Biosolid waste applications; Boat repair facilities; Boat sheds; Business premises; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Dwelling houses; Entertainment facilities; Freight transport facilities; Function centres; Helipads; Highway service centres; Home occupations (sex services); Industries; Information and education facilities; Marinas; Mortuaries; Moveable dwellings; Office premises; Passenger transport facilities; Port facilities; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Restriction facilities; Retail premises; Rural supplies; Rural workers' dwellings; Service stations; Sex services premises; Signage; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Waste or resource management facilities; Wholesale supplies

Zone B5 Business Development

1 Objectives of zone

- To enable a mix of business and warehouse uses in locations that are close to, and that support the viability of, centres.
- To allow development that is compatible with the scale, form and character of existing buildings and the surrounding area.

2 Permitted without consent

Nil

3 Permitted with consent

Bulky goods premises; Business premises; Car parks; Child care centres; Community facilities; Earthworks; Educational establishments; Entertainment facilities; Function centres; Landscape and garden supplies; Passenger transport facilities; Places of public worship; Pubs; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Roads; Service stations; Signage; Storage premises; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres

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Schedule 1 Amendment of State Environmental Planning Policy (Sydney Region
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4 Prohibited

Any development not specified in item 2 or 3

Zone B7 Business Park

1 Objectives of zone

- To provide a range of office and light industrial uses.
- To encourage employment opportunities.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

2 Permitted without consent

Nil

3 Permitted with consent

Child care centres; Hotel or motel accommodation; Light industries; Neighbourhood shops; Office premises; Passenger transport facilities; Roads; Warehouse or distribution centres; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Biosolid waste applications; Bulky goods premises; Caravan parks; Cemeteries; Correctional centres; Exhibition homes; Exhibition villages; Farm buildings; Helipads; Home-based child care; Home businesses; Home industries; Home occupations; Home occupations (sex services); Industries; Information and education facilities; Moveable dwellings; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Restriction facilities; Tourist and visitor accommodation; Waste disposal facilities

Zone IN1 General Industrial

1 Objectives of zone

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.

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- To enable development for the purpose of retail premises only where it serves convenience needs, or where the goods or materials sold are of a type and nature consistent with construction and maintenance of buildings.

2 Permitted without consent

Nil

3 Permitted with consent

Animal boarding or training establishments; Depots; Drainage; Earthworks; Freight transport facilities; Light industries; Neighbourhood shops; Recreation facilities (major); Registered clubs; Roads; Take away food and drink premises; Warehouse or distribution centres; Waste or resource management facilities; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Biosolid waste applications; Bulky goods premises; Business premises; Caravan parks; Cemeteries; Child care centres; Community facilities; Correctional centres; Educational establishments; Entertainment facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Function centres; Health services facilities; Heavy industries; Home-based child care; Home businesses; Home industries; Home occupations; Home occupations (sex services); Information and education facilities; Office premises; Public administration buildings; Residential accommodation; Restriction facilities; Retail premises; Tourist and visitor accommodation; Vehicle sales or hire premises; Waste disposal facilities

Zone IN2 Light Industrial

1 Objectives of zone

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

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2 Permitted without consent

Nil

3 Permitted with consent

Depots; Earthworks; Food and drink premises; Freight transport facilities; Landscape and garden supplies; Light industries; Neighbourhood shops; Roads; Service stations; Timber and building supplies; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Biosolid waste applications; Bulky goods premises; Business premises; Caravan parks; Cemeteries; Correctional centres; Entertainment facilities; Exhibition homes; Exhibition villages; Farm buildings; Function centres; Hazardous storage establishments; Helipads; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Hospitals; Industries; Information and education facilities; Moveable dwellings; Offensive storage establishments; Office premises; Public administration buildings; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Restriction facilities; Retail premises; Tourist and visitor accommodation; Waste or resource management facilities

Zone SP2 Infrastructure

1 Objectives of zone

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

2 Permitted without consent

Nil

3 Permitted with consent

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; Earthworks; Environmental protection works; Flood mitigation works; Recreation areas; Recreation facilities (outdoor); Roads; Water recycling facilities; Waterbodies (artificial)

4 Prohibited

Any development not specified in item 2 or 3

Zone RE1 Public Recreation

1 Objectives of zone

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

2 Permitted without consent

Nil

3 Permitted with consent

Building identification signs; Business identification signs; Community facilities; Earthworks; Environmental facilities; Environmental protection works; Flood mitigation works; Kiosks; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Roads; Water recycling facilities; Waterbodies (artificial)

4 Prohibited

Any development not specified in item 2 or 3

Zone E2 Environmental Conservation

1 Objectives of zone

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

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2 Permitted without consent

Nil

3 Permitted with consent

Earthworks; Environmental facilities; Environmental protection works; Flood mitigation works; Information and education facilities; Kiosks; Recreation areas; Roads; Signage; Waterbodies (artificial)

4 Prohibited

Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

Part 3 Exempt and complying development

3.1 Exempt development

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

The section states that exempt development:

- (a) must be of minimal environmental impact, and
 - (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), and
 - (c) cannot be carried out in a wilderness area (identified under the *Wilderness Act 1987*).
- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
 - (2) Development specified in Schedule 1 to this Policy that meets the standards for the development contained in that Schedule and that complies with the requirements of this Part is exempt development.
 - (3) To be exempt development, the development:
 - (a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia* or, if there are no such relevant provisions, must be structurally adequate, and
 - (b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and

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- (c) must not be designated development, and
 - (d) must not be carried out on land that comprises, or on which there is, an item that is listed on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*.
- (4) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2–9 is exempt development only if:
- (a) the building has a current fire safety certificate or fire safety statement, or
 - (b) no fire safety measures are currently implemented, required or proposed for the building.
- (5) To be exempt development, the development must:
- (a) be installed in accordance with the manufacturer's specifications, if applicable, and
 - (b) not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.
- Note.** A permit for the removal or pruning of a tree or other vegetation may be granted under this Plan. A development consent for the removal of native vegetation may be granted where relevant under the *Native Vegetation Act 2003*.
- (6) A heading to an item in Schedule 1 to this Policy is taken to be part of that Schedule.

3.2 Complying development

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

The section states that development cannot be complying development if:

- (a) it is on land that is critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), or
- (b) it is on land within a wilderness area (identified under the *Wilderness Act 1987*), or
- (c) the development is designated development, or

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- (d) the development is on land that comprises, or on which there is, an item of environmental heritage (that is listed on the State Heritage Register or that is subject to an interim heritage order under the *Heritage Act 1977*), or
 - (e) the development requires concurrence (except a concurrence of the Director-General of the Department of Environment, Climate Change and Water in respect of development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat (identified under the *Threatened Species Conservation Act 1995*), or
 - (f) the development is on land identified as an environmentally sensitive area.
- (1) The objective of this clause is to identify development as complying development.
 - (2) Development specified in Part 1 of Schedule 2 to this Policy that is carried out in compliance with:
 - (a) the development standards specified in relation to that development, and
 - (b) the requirements of this Part,is complying development.

Note. See also clause 5.8 (3) which provides that the conversion of fire alarms is complying development in certain circumstances.
 - (3) To be complying development, the development must:
 - (a) be permissible, with consent, in the zone in which it is carried out, and
 - (b) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (c) have an approval, if required by the *Local Government Act 1993*, from the Council for an on-site effluent disposal system if the development is undertaken on unsewered land.
 - (4) A complying development certificate for development specified in Part 1 of Schedule 2 to this Policy is subject to the conditions (if any) set out in Part 2 of that Schedule.
 - (5) A heading to an item in Schedule 2 to this Policy is taken to be part of that Schedule.

3.3 Environmentally sensitive areas excluded

- (1) Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.

(2) For the purposes of this clause:

environmentally sensitive area for exempt or complying development means any of the following:

- (a) the coastal waters of the State,
- (b) a coastal lake,
- (c) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies,
- (d) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*,
- (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,
- (f) land within 100 metres of land to which paragraph (c), (d) or (e) applies,
- (g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,
- (h) land reserved as a state conservation area under the *National Parks and Wildlife Act 1974*,
- (i) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
- (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*,
- (k) land in Zone E2 Environmental Conservation,
- (l) land that is shown as a native vegetation retention area or an existing native vegetation area on the Native Vegetation Protection Map,
- (m) land that is shown as a riparian protection area on the Riparian Protection Area Map.

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Part 4 Principal development standards

4.1 Minimum subdivision lot size

- (1) The objectives of this clause are as follows:
 - (a) to ensure orderly and efficient use of land,
 - (b) to ensure a minimum lot size sufficient for development,
 - (c) to allow for a range of lot sizes that cater for a diversity of land uses and employment activities.
- (2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Precinct Plan.
- (3) The size of any lot resulting from any such subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.
- (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

4.3 Height of buildings

- (1) The objectives of this clause are as follows:
 - (a) to establish the maximum height of buildings on land within the Marsden Park Industrial Precinct,
 - (b) to provide for a range of building heights in appropriate locations that provide a high quality urban form,
 - (c) to provide appropriate height controls for commercial, industrial and residential development,
 - (d) to establish parameters for and promote a high quality built form,
 - (e) to protect the amenity of adjoining development and land in terms of solar access to buildings and open space.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

4.4 Floor space ratio

- (1) The objective of this clause is to control the bulk and scale of buildings within the Marsden Park Industrial Precinct by setting maximum floor space ratios for development within Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone B5 Business Development, Zone B7 Business Park and Zone IN2 Light Industrial.
- (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.

4.5 Calculation of floor space ratio and site area

(1) Objectives

The objectives of this clause are as follows:

- (a) to define *floor space ratio*,
- (b) to set out rules for the calculation of the site area of development for the purpose of applying permitted floor space ratios, including rules to:
 - (i) prevent the inclusion in the site area of an area that has no significant development being carried out on it, and
 - (ii) prevent the inclusion in the site area of an area that has already been included as part of a site area to maximise floor space area in another building, and
 - (iii) require community land and public places to be dealt with separately.

(2) Definition of “floor space ratio”

The *floor space ratio* of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

(3) Site area

In determining the site area of proposed development for the purpose of applying a floor space ratio, the *site area* is taken to be:

- (a) if the proposed development is to be carried out on only one lot, the area of that lot, or
- (b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common

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boundary with another lot on which the development is being carried out.

In addition, subclauses (4)–(7) apply to the calculation of site area for the purposes of applying a floor space ratio to proposed development.

(4) **Exclusions from site area**

The following land must be excluded from the site area:

- (a) land on which the proposed development is prohibited, whether under this Precinct Plan or any other law,
- (b) community land or a public place (except as provided by subclause (7)).

(5) **Strata subdivisions**

The area of a lot that is wholly or partly on top of another or others in a strata subdivision is to be included in the calculation of the site area only to the extent that it does not overlap with another lot already included in the site area calculation.

(6) **Only significant development to be included**

The site area for proposed development must not include a lot additional to a lot or lots on which the development is being carried out unless the proposed development includes significant development on that additional lot.

(7) **Certain public land to be separately considered**

For the purpose of applying a floor space ratio to any proposed development on, above or below community land or a public place, the site area must only include an area that is on, above or below that community land or public place, and is occupied or physically affected by the proposed development, and may not include any other area on which the proposed development is to be carried out.

(8) **Existing buildings**

The gross floor area of any existing or proposed buildings within the vertical projection (above or below ground) of the boundaries of a site is to be included in the calculation of the total floor space for the purposes of applying a floor space ratio, whether or not the proposed development relates to all of the buildings.

(9) **Covenants to prevent “double dipping”**

When consent is granted to development on a site comprised of 2 or more lots, a condition of the consent may require a covenant to be registered that prevents the creation of floor area on a lot (*the restricted lot*) if the consent authority is satisfied that an equivalent quantity of floor area will be created on another lot only because the site included the restricted lot.

(10) **Covenants affect consolidated sites**

If:

- (a) a covenant of the kind referred to in subclause (9) applies to any land (*affected land*), and
- (b) proposed development relates to the affected land and other land that together comprise the site of the proposed development,

the maximum amount of floor area allowed on the other land by the floor space ratio fixed for the site by this Precinct Plan is reduced by the quantity of floor space area the covenant prevents being created on the affected land.

(11) **Definition**

In this clause, *public place* has the same meaning as it has in the *Local Government Act 1993*.

4.5A Shops—total gross floor area

- (1) The total gross floor area used for the purpose of shops (including neighbourhood shops) on all land within Zone B7 Business Park must not exceed 3,500 square metres.
- (2) The total gross floor area used for the purpose of shops in a particular development for that purpose on land within Zone B7 Business Park must not exceed 500 square metres.

4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

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- (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
- (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 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.

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- (6) Consent must not be granted under this clause for a subdivision of land within Zone E2 Environmental Conservation 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,
 - (c) clause 4.1,
 - (d) clause 5.4.

Part 5 Miscellaneous provisions

5.1 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.

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- (2) The authority of the State that will be the relevant authority to acquire land, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to the land shown on the Land Reservation Acquisition Map (or, if an authority of the State is not specified in relation to land required to be so acquired, the authority designated or determined under those provisions).

Type of land shown on Map	Authority of the State
Zone RE1 Public Recreation and marked "Local Open Space (RE1)"	Council
Zone SP2 Infrastructure and marked "Local Road Widening (SP2)"	Council
Zone SP2 Infrastructure and marked "Local Drainage (SP2)"	Council
Zone SP2 Infrastructure and marked "Local Road (SP2)"	Council
Zone SP2 Infrastructure and marked "Classified Road Widening"	Roads and Traffic Authority
Zone SP2 Infrastructure and marked "Classified Road"	Roads and Traffic Authority

- (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 Part. 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*).

5.2 Classification and reclassification of public land

- (1) The objective of this clause is to enable the Council to classify or reclassify public land as “operational land” or “community land” in accordance with Part 2 of Chapter 6 of the *Local Government Act 1993*.

Note. Under the *Local Government Act 1993*, “public land” is generally land vested in or under the control of a council (other than roads, Crown reserves and commons). The classification or reclassification of public land may also be made by a resolution of the Council under section 31, 32 or 33 of the *Local Government Act 1993*. Section 30 of that Act enables this Precinct Plan to discharge trusts on which public reserves are held if the land is reclassified under this Precinct Plan as operational land.

- (2) The public land described in Part 1 or Part 2 of Schedule 4 to this Appendix is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.
- (3) The public land described in Part 3 of Schedule 4 to this Appendix is classified, or reclassified, as community land for the purposes of the *Local Government Act 1993*.
- (4) The public land described in Part 1 of Schedule 4:
- (a) does not cease to be a public reserve to the extent (if any) that it is a public reserve, and
 - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants that affected the land before its classification, or reclassification, as operational land.
- (5) The public land described in Part 2 of Schedule 4, to the extent (if any) that it is a public reserve, ceases to be a public reserve when the description of the land is inserted into that Part and is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except:
- (a) those (if any) specified for the land in Column 3 of Part 2 of Schedule 4, and
 - (b) any reservations that except land out of the Crown grant relating to the land, and
 - (c) reservations of minerals (within the meaning of the *Crown Lands Act 1989*).

Note. In accordance with section 30 (2) of the *Local Government Act 1993*, the approval of the Governor to subclause (5) applying to the public land concerned is required before the description of the land is inserted in Part 2 of Schedule 4 to this Appendix.

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5.3 Development near zone boundaries

- (1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.
- (2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is as follows:
 - (a) in the case of a boundary between Zone SP2 Infrastructure and any other zone—100 metres,
 - (b) in any other case—30 metres.
- (3) This clause does not apply to:
 - (a) land zoned E2 Environmental Conservation, or
 - (b) land proposed to be developed for the purpose of sex services or restricted premises.
- (4) Despite the provisions of this Precinct Plan relating to the purposes for which development may be carried out, consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:
 - (a) the development is not inconsistent with the objectives for development in both zones, and
 - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.
- (5) The clause does not prescribe a development standard that may be varied under this Precinct Plan.

5.4 Controls relating to miscellaneous permissible uses

- (1) **Bed and breakfast accommodation**

If development for the purposes of bed and breakfast accommodation is permitted under this Precinct Plan, the accommodation that is provided to guests must consist of no more than 3 bedrooms.

(2) **Home businesses**

If development for the purposes of a home business is permitted under this Precinct Plan, the carrying on of the business must not involve the use of more than 30 square metres of gross floor area.

(3) **Home industries**

If development for the purposes of a home industry is permitted under this Precinct Plan, the carrying on of the home industry must not involve the use of more than 30 square metres of gross floor area.

(4) **Industrial retail outlets**

If development for the purposes of an industrial retail outlet is permitted under this Precinct Plan, the retail gross 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.

(5) **Farm stay accommodation**

If development for the purposes of farm stay accommodation is permitted under this Precinct Plan, the accommodation that is provided to guests must consist of no more than 3 bedrooms.

(6) **Kiosks**

If development for the purposes of a kiosk is permitted under this Precinct Plan, the gross floor area must not exceed 30 square metres.

(7) **Neighbourhood shops**

If development for the purposes of a neighbourhood shop is permitted under this Precinct Plan, the retail gross floor area must not exceed 1,000 square metres.

(8) **Roadside stalls**

If development for the purposes of a roadside stall is permitted under this Precinct Plan, the gross floor area must not exceed 8 square metres.

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(9) **Secondary dwellings**

If development for the purposes of a secondary dwelling is permitted under this Precinct Plan, the total gross floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 110 square metres,
- (b) 30% of the total gross floor area of both the self-contained dwelling and the principal dwelling.

5.6 Architectural roof features

- (1) The objectives of this clause are:
 - (a) to ensure that architectural roof features are decorative elements only, and
 - (b) to ensure that the majority of the roof features are contained within the prescribed building height.
- (2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with consent.
- (3) 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
 - (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.

5.8 Conversion of fire alarms

- (1) This clause applies to a fire alarm system that can be monitored by New South Wales Fire Brigades or by a private service provider.

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- (2) The following development may be carried out, but only with consent:
- (a) converting a fire alarm system from connection with the alarm monitoring system of New South Wales Fire Brigades to connection with the alarm monitoring system of a private service provider,
 - (b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,
 - (c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.
- (3) Development to which subclause (2) applies is complying development if it consists only of:
- (a) internal alterations to a building, or
 - (b) internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm × 100mm × 100mm.
- (4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.
- (5) In this clause:
- private service provider*** means a person or body that has entered into an agreement that is in force with New South Wales Fire Brigades to monitor fire alarm systems.

5.9 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.

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- (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) 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*, or
 - (f) native vegetation retention areas to which clause 6.4 of this Precinct Plan applies, or
 - (g) existing native vegetation to which clause 6.5 of this Precinct Plan applies.

5.11 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.

5.12 Infrastructure development and use of existing buildings of the Crown

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

Part 6 Additional local provisions

6.1 Public utility infrastructure

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

6.2 Attached dwellings in Zone R2 Low Density Residential

- (1) The objectives of this clause are:
 - (a) to permit, with development consent, attached dwellings within Zone R2 Low Density Residential in limited circumstances, and

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- (b) to provide location and development criteria that must be satisfied before development consent can be granted.
- (2) Development for the purposes of attached dwellings is permissible with development consent only on land within Zone R2 Low Density Residential that adjoins, or is only separated by a public road from:
 - (a) land within the Public Recreation—Regional Zone (as referred to in Part 3 of this Policy), or
 - (b) land within Zone E2 Environmental Conservation, or
 - (c) land within Zone SP2 Infrastructure and shown on the Land Reservation Acquisition Map as Local Drainage.
- (3) Development consent must not be granted under this clause unless the consent authority is satisfied that:
 - (a) the attached dwellings will not adversely impact on the amenity of any adjoining residential properties, and
 - (b) the attached dwellings will be designed and oriented to provide active frontages to and surveillance of the public recreation or drainage land, and
 - (c) the attached dwellings will not adversely impact on or limit solar access to any adjoining residential properties or public open space land.

6.3 Information and educational facilities in Zone R2 Low Density Residential

- (1) The objectives of this clause are as follows:
 - (a) to permit, with development consent, information and education facilities within Zone R2 Low Density Residential in limited circumstances,
 - (b) to provide criteria for the location and development of information and education facilities within Zone R2 Low Density Residential in the Marsden Park Industrial Precinct,
 - (c) to ensure that development for the purposes of information and education facilities does not detract from the character and amenity of land within Zone R2 Low Density Residential.

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- (2) Development for the purpose of information and education facilities is permissible with development consent only on land within Zone R2 Low Density Residential that:
 - (a) adjoins land within the Public Recreation—Regional Zone (as referred to in Part 3 of this Policy) or Zone E2 Environmental Conservation, or that is separated from land within the Public Recreation—Regional Zone or Zone E2 Environmental Conservation only by a public road, or
 - (b) is within 90 metres of a public transport stop, or
 - (c) adjoins an educational establishment or a community facility or that is separated from an educational establishment or a community facility only by a public road.
 - (3) Development consent must not be granted for an information and education facility if it would be located within 800 metres of another information and educational facility within Zone R2 Low Density Residential.

6.4 Development controls—native vegetation retention areas and riparian protection areas

- (1) The objective of this clause is to prevent the clearing of certain native vegetation.
- (2) This clause applies to land:
 - (a) within a native vegetation retention area as shown on the Native Vegetation Protection Map, or
 - (b) within a riparian protection area as shown on the Riparian Protection Area Map.
- (3) This clause does not apply to native vegetation that the Council is satisfied:
 - (a) is dying or dead and is not required as the habitat of native fauna, or
 - (b) is a risk to human life or property.
- (4) This clause does not apply to any native vegetation:
 - (a) within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or
 - (b) declared to be noxious weeds under the *Noxious Weeds Act 1993*.

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- (5) A person must not clear native vegetation on land to which this clause applies without:
 - (a) approval under Part 3A of the Act, or
 - (b) development consent.
- (6) Development consent under this clause is not to be granted unless the consent authority is satisfied of the following in relation to the disturbance of native vegetation:
 - (a) that there is no reasonable alternative available to the disturbance of the native vegetation,
 - (b) that as little native vegetation as possible will be disturbed,
 - (c) that the disturbance of the native vegetation will not increase salinity,
 - (d) that native vegetation disturbed for the purposes of construction will be reinstated where possible on completion of construction,
 - (e) that the loss of remnant native vegetation caused by the disturbance will be compensated by revegetation on or near the land to avoid any net loss of remnant native vegetation,
 - (f) that no more than 0.5 hectares of native vegetation will be cleared unless the clearing is essential for a previously permitted use of the land.
- (7) The consent authority must, when determining a development application in respect of the clearing of native vegetation on land within a zone under this Precinct Plan, have regard to the objectives for development in that zone.
- (8) This clause does not apply to or in respect of action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993*, the *Surveying and Spatial Information Act 2002* or the *Sydney Water Act 1994*.

6.5 Development controls—existing native vegetation

- (1) The objective of this clause is to manage existing native vegetation in accordance with the relevant biodiversity measures under Part 7 of Schedule 7 to the *Threatened Species Conservation Act 1995*.
- (2) This clause applies to land within an existing native vegetation area as shown on the Native Vegetation Protection Map.
- (3) This clause does not apply to any vegetation declared to be noxious weeds under the *Noxious Weeds Act 1993*.

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- (4) The consent authority must not grant development consent for development on land to which this clause applies unless it is satisfied that the proposed development will not result in the clearing of any existing native vegetation (within the meaning of the relevant biodiversity measures under Part 7 of Schedule 7 to the *Threatened Species Conservation Act 1995*).

Schedule 1 Additional permitted uses

(Clause 2.5)

1 Take away food and drink premises within Zone B5 Business Development

Land shown hatched on the Land Zoning Map—development for the purpose of take away food and drink premises.

Schedule 4 Classification and reclassification of public land

(Clause 5.2)

This Schedule is blank on the making of this Precinct Plan

Part 1 Land classified, or reclassified, as operational land—no interests changed

Column 1	Column 2
Locality	Description

Part 2 Land classified, or reclassified, as operational land—interests changed

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged

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**Part 3 Land classified, or reclassified, as community
land**

Column 1	Column 2
Locality	Description

[4] Dictionary

Insert the following paragraph with appropriate numbering after the last paragraph of the notes to the definitions of *bed and breakfast accommodation, farm stay accommodation, home business, home industry, industrial retail outlet, kiosk, neighbourhood shop, roadside stall* and *secondary dwelling*:

clause 5.4 of Appendix 5 in respect of Marsden Park Industrial Precinct.

[5] Dictionary

Insert in alphabetical order:

Marsden Park Industrial Precinct means the land shown within the Marsden Park Industrial Precinct on the North West Growth Centre Precinct Boundary Map.