



New South Wales

State Environmental Planning Policy (Major Development) Amendment (Calderwood) 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*. (10/10363)

TONY KELLY, MLC
Minister for Planning

State Environmental Planning Policy (Major Development) Amendment (Calderwood) 2010

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Major Development) Amendment (Calderwood) 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- (1) This Policy is repealed on the day following the day on which this Policy commences.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 Amendment of State Environmental Planning Policy (Major Development) 2005

[1] Schedule 3 State significant sites

Insert in the Schedule with appropriate Part number:

Part Calderwood site

Division 1 Preliminary

1 Land to which Part applies

This Part applies to the land identified in the Land Application Map, referred to in this Part as the *Calderwood site*.

2 Interpretation

(1) In this Part:

eco-tourism facility means a building or place used for tourist and visitor accommodation, function centres or environmental facilities, that is located in a natural environment and is primarily used for activities involving education about, or the interpretation, cultural understanding or appreciation of, the natural environment.

ground level (finished) means, for any point on a site, the ground surface after completion of any earthworks (excluding an excavation for a basement, footing or the like) for which development consent or an approval under Part 3A of the Act has been granted.

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

heritage item means a building, work, relic, tree or place:

- (a) shown as a heritage item on the Heritage Map, and
- (b) the location and nature of which is described in the Table to clause 27 (8).

Heritage Map means the State Environmental Planning Policy (Major Development) 2005 Calderwood Heritage Map.

Land Application Map means the State Environmental Planning Policy (Major Development) 2005 Calderwood Land Application Map.

2011 No 10

State Environmental Planning Policy (Major Development) Amendment
(Calderwood) 2010

Schedule 1

Amendment of State Environmental Planning Policy (Major Development)
2005

Land Zoning Map means the State Environmental Planning Policy (Major Development) 2005 Calderwood Land Zoning Map.

Lot Size Map means the State Environmental Planning Policy (Major Development) 2005 Calderwood Lot Size Map.

manufactured home means a self-contained dwelling that:

- (a) includes at least 1 kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities, and
- (b) comprises 1 or more major sections that are each constructed, and assembled, away from the manufactured home estate and transported to the estate for installation on the estate, and
- (c) is not capable of being registered under the *Road Transport (Vehicle Registration) Act 1997*,

and includes any associated structures that form part of the dwelling.

manufactured home estate means land on which manufactured homes are, or are to be, erected.

place of Aboriginal heritage significance means an area of land shown on the Heritage Map that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

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

Note. The land concerned is partly in the local government area of Shellharbour and partly in the local government area of Wollongong.

stormwater management system means:

- (a) works for the collection, detention, distribution or discharge of stormwater (such as channels, aqueducts, pipes, drainage works, embankments, detention basins and pumping stations), and

(b) stormwater quality control devices (such as waste entrapment facilities, artificial wetlands, sediment ponds and riparian management), and

(c) stormwater reuse schemes.

waterway or foreshore management activities means:

(a) riparian corridor and bank management, including erosion control, bank stabilisation, resnagging, weed management, revegetation and the creation of foreshore access ways, or

(b) instream management or dredging to rehabilitate aquatic habitat or to maintain or restore environmental flows or tidal flows for ecological purposes, or

(c) coastal management and beach nourishment, including erosion control, dune or foreshore stabilisation works, headland management, weed management, revegetation activities and foreshore access ways.

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

3 Consent authority

The consent authority for development on land within the Calderwood site, other than development to which Part 3A of the Act applies, is the relevant council.

4 Maps

(1) A reference in this Part to a named map adopted by this Part is a reference to a map by that name:

(a) approved by the Minister when the map is adopted, and

(b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.

(2) Any 2 or more named maps may be combined into a single map. In that case a reference in this Part to any such named map is a reference to the relevant part or aspect of the single map.

(3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.

(4) For the purposes of this Part, a map may be in, and may be kept and made available in, electronic or paper form, or both.

2011 No 10

State Environmental Planning Policy (Major Development) Amendment
(Calderwood) 2010

Schedule 1 Amendment of State Environmental Planning Policy (Major Development)
2005

5 Relationship with other environmental planning instruments

The only environmental planning instruments that apply, according to their terms, to land within the Calderwood site are:

- (a) this Policy, and
- (b) all other State Environmental Planning Policies, other than *State Environmental Planning Policy No 1—Development Standards*.

Division 2 Provisions relating to development in Calderwood site

6 Application of Division

- (1) This Division applies to development on land within the Calderwood site, except as provided by subclause (2).
- (2) Clauses 8–15, 17–21 and 23–33 do not apply to development to the extent that it is a project to which Part 3A of the Act applies.

7 Land use zones

For the purposes of this Part, land within the Calderwood site is in one of the follow zones if the land is shown on the Land Zoning Map as being within that zone:

- (a) Zone RU2 Rural Landscape,
- (b) Zone R1 General Residential,
- (c) Zone R5 Large Lot Residential
- (d) Zone B4 Mixed Use,
- (e) Zone RE1 Public Recreation,
- (f) Zone E2 Environmental Conservation,
- (g) Zone E3 Environmental Management.

8 Objectives of land use zones to be taken into account

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

9 Zone RU2 Rural Landscape

- (1) The objectives of Zone RU2 Rural Landscape are as follows:
 - (a) to encourage sustainable primary industry production by maintaining and enhancing the natural resource base,
 - (b) to maintain the rural landscape character of the land,

- (c) to provide for a range of compatible uses, including extensive agriculture,
 - (d) to retain, manage or restore native vegetation.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone RU2 Rural Landscape:
extensive agriculture; home occupations; roadside stalls.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone RU2 Rural Landscape:
agriculture (other than extensive agriculture); bed and breakfast accommodation; child care centres; community facilities; dwelling houses; environmental facilities; environmental protection works; farm buildings; farm stay accommodation; forestry; home-based child care; home businesses; home industries; recreation areas; recreation facilities (outdoor); roads; secondary dwellings; signage; veterinary hospitals.
- (4) Development for any of the following purposes is prohibited on land within Zone RU2 Rural Landscape:
any development not specified in subclause (2) or (3).

10 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.
- (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; child care centres; community facilities; dwelling houses; group homes; hostels; 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 subclause (2) or (4).

2011 No 10

State Environmental Planning Policy (Major Development) Amendment
(Calderwood) 2010

Schedule 1 Amendment of State Environmental Planning Policy (Major Development)
2005

- (4) Development for any of the following purposes is prohibited on land within Zone R1 General Residential:

agriculture; air transport facilities; amusement centres; biosolid waste applications; boat repair facilities; boat sheds; bulky goods premises; business premises; caravan parks; charter and tourism boating facilities; correctional centres; crematoria; depots; eco-tourism facilities; entertainment facilities; extractive industries; farm buildings; farm stay accommodation; forestry; freight transport facilities; function centres; highway service centres; home occupations (sex services); industrial retail outlets; industries; marinas; office premises; passenger transport facilities; port facilities; public administration buildings; recreation facilities (major); registered clubs; research stations; restricted premises; restriction facilities; retail premises; rural industries; rural supplies; rural workers' dwellings; service stations; sex services premises; storage premises; timber and building supplies; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; vehicle sales or hire premises; waste or resource management facilities; water recreation structures; wholesale supplies.

11 Zone R5 Large Lot Residential

- (1) The objectives of Zone R5 Large Lot Residential are as follows:
- (a) to provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality,
 - (b) to ensure that large residential allotments do not hinder the proper and orderly development of urban areas in the future,
 - (c) to ensure that development in the area does not unreasonably increase the demand for public services or public facilities,
 - (d) to minimise conflict between land uses within the zone and land uses within adjoining zones.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R5 Large Lot Residential:
- home occupations.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R5 Large Lot Residential:
- animal boarding or training establishments; bed and breakfast accommodation; business identification signs; child care centres; community facilities; dwelling houses; environmental protection works; exhibition homes; farm buildings; home-based child care; home businesses; home industries; recreation areas; roads; roadside stalls; secondary dwellings.
- (4) Development for any of the following purposes is prohibited on land within Zone R5 Large Lot Residential:
- any development not specified in subclause (2) or (3).

12 Zone B4 Mixed Use

- (1) The objectives of Zone B4 Mixed Use are as follows:
- (a) to provide a mixture of compatible uses,
- (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 development consent on land within Zone B4 Mixed Use:
- home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone B4 Mixed Use:
- boarding houses; business premises; child care centres; community facilities; educational establishments; entertainment facilities; function centres; hotel or motel accommodation; information and education facilities; office premises; passenger transport facilities; recreation facilities (indoor); registered clubs; retail premises; roads; shop top housing; any other development not specified in subclause (2) or (4).
- (4) Development for any of the following purposes is prohibited on land within Zone B4 Mixed Use:
- agriculture; air transport facilities; biosolid waste applications; boat repair facilities; boat sheds; caravan parks; charter and tourism boating facilities; correctional centres; crematoria; depots; extractive industries; farm buildings; farm stay accommodation; forestry; freight transport facilities; hazardous storage establishments; hazardous industries; heavy industries;

2011 No 10

State Environmental Planning Policy (Major Development) Amendment
(Calderwood) 2010

Schedule 1 Amendment of State Environmental Planning Policy (Major Development)
2005

home occupations (sex services); liquid fuel depots; offensive storage establishments; restricted premises; restriction facilities; rural industries; sex services premises; transport depots; truck depots; water recreation structures.

13 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, activities and compatible land uses,
 - (c) to protect and enhance the natural environment for recreational purposes.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone RE1 Public Recreation:
nil.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone RE1 Public Recreation:
building identification signs; business identification signs; child care centres; community facilities; drainage; environmental facilities; environmental protection works; flood mitigation works; information and education facilities; kiosks; markets; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); roads; sewerage reticulation facilities; stormwater management systems; water reticulation systems; waterbodies; waterway or foreshore management activities.
- (4) Development for any of the following purposes is prohibited on land within Zone RE1 Public Recreation:
any development not specified in subclause (2) or (3).

14 Zone E2 Environmental Conservation

- (1) The objectives of Zone E2 Environmental Conservation are as follows:
 - (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
 - (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.

- (2) Development for any of the following purposes is permitted without development consent on land within Zone E2 Environmental Conservation:
nil.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E2 Environmental Conservation:
drainage; environmental protection works; environmental facilities; flood mitigation works; information and education facilities; kiosks; recreation areas; roads; sewerage systems; stormwater management systems; water reticulation systems; water supply systems; waterbodies; waterway or foreshore management activities.
- (4) Development for any of the following purposes is prohibited on land within Zone E2 Environmental Conservation:
business premises; hotel or motel accommodation; industries; multi dwelling housing; recreation facilities (major); residential flat buildings; retail premises; service stations; warehouse or distribution centres; any development not specified in subclause (2) or (3).

15 Zone E3 Environmental Management

- (1) The objectives of Zone E3 Environmental Management are as follows:
 - (a) to protect, manage and restore areas of 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 without development consent on land within Zone E3 Environmental Management:
home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E3 Environmental Management:
bed and breakfast accommodation; building identification signs; business identification signs; community facilities; drainage; dwelling houses; eco-tourism facilities; environmental facilities; environmental protection works; flood mitigation works; home-based child care; home businesses; home industries; information and education facilities; kiosks; recreation areas;

2011 No 10

State Environmental Planning Policy (Major Development) Amendment
(Calderwood) 2010

Schedule 1 Amendment of State Environmental Planning Policy (Major Development)
2005

roads; sewerage systems; stormwater management systems; water reticulation systems; waterbodies; waterway or foreshore management activities.

- (4) Development for any of the following purposes is prohibited on land within Zone E3 Environmental Management:

industries; multi dwelling housing; residential flat buildings; retail premises; service stations; warehouse or distribution centres; any development not specified in subclause (2) or (3).

16 Prohibited development

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

17 Subdivision—consent requirements

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

18 Minimum subdivision lot size

- (1) The objectives of this clause are as follows:
- (a) to create lots that are compatible with the desired future character of the locality and to minimise likely adverse impacts on the amenity of adjoining developments,
 - (b) to ensure that lot sizes are able to accommodate development that is suitable for its purpose and consistent with relevant development controls,

- (c) to ensure that lot sizes have a practical and efficient layout for the intended use,
 - (d) to ensure that lot sizes allow buildings to be sited to protect natural or cultural features and retain special features such as trees and views.
- (2) This clause applies to a subdivision of any land in the Calderwood 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 the minimum lot size shown on the Lot Size Map in relation to that land.
 - (4) Despite any other provision of this Part, development consent must not be granted for the subdivision of any land in the Calderwood site if the subdivision would create a lot smaller than the minimum lot size permitted for the land immediately before the commencement of this clause.
 - (5) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

19 Subdivision certificates

A subdivision certificate may be issued by an accredited certifier for a subdivision of land within the Calderwood site in accordance with section 109D (1) (d) (iv) of the Act.

20 Height restrictions

The height of a building on any land within the Calderwood site is not to exceed the maximum height shown for the land on the Height of Buildings Map, measured from ground level (finished).

21 Kiosks

Despite any other provision of this plan, if development consent may be granted to development for the purposes of a kiosk, consent must only be granted if the floor area of the kiosk does not exceed 10m².

22 Exceptions to development standards—Part 3A projects

- (1) A development standard imposed by this or any other environmental planning instrument on development that is part of a project to which Part 3A of the Act applies, and is on land

2011 No 10

State Environmental Planning Policy (Major Development) Amendment
(Calderwood) 2010

Schedule 1

Amendment of State Environmental Planning Policy (Major Development)
2005

within the Calderwood site, does not apply to that development if the Director-General is satisfied, and issues a certificate to the effect, that:

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) there are sufficient environmental planning grounds to justify exempting the development from that development standard.
- (2) In deciding whether to issue a certificate, the Director-General must consider:
- (a) whether the 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.

23 Exceptions to development standards—other development

- (1) This clause applies to development on land within the Calderwood site, other than development that is part of a project to which Part 3A of the Act applies.
- (2) The objectives of this clause are:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
 - (b) to achieve better outcomes for and from development by allowing flexibility on particular circumstances.
- (3) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (4) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to

justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (5) Development consent must not be granted for development that contravenes a development standard unless:
- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (4), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
- (6) In deciding whether to grant concurrence, the Director-General must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (7) Development consent must not be granted under this clause for a subdivision of land in Zone E2 Environmental Conservation.
- (8) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (4).
- (9) This clause does not allow development 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

2011 No 10

State Environmental Planning Policy (Major Development) Amendment
(Calderwood) 2010

Schedule 1 Amendment of State Environmental Planning Policy (Major Development)
2005

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.

24 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.
- (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.

25 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.

26 Flood planning

- (1) The objectives of this clause are as follows:
 - (a) to minimise the flood risk to life and property associated with the use of land,
 - (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,
 - (c) to avoid significant adverse impacts on flood behaviour and the environment.
- (2) This clause applies to land at or below the flood planning level.
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:
 - (a) is compatible with the flood hazard of the land, and
 - (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
 - (c) incorporates appropriate measures to manage risk to life from flood, and
 - (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction or riparian vegetation or a reduction in the stability of river banks or watercourses, and
 - (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.
- (4) A word or expression used in this clause has the same meaning as it has in the NSW Government's *Floodplain Development Manual* published in 2005, unless it is otherwise defined in this clause.
- (5) In this clause:

flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5m freeboard.

2011 No 10

State Environmental Planning Policy (Major Development) Amendment
(Calderwood) 2010

Schedule 1 Amendment of State Environmental Planning Policy (Major Development)
2005

27 Heritage conservation

(1) Objectives

The objectives of this clause are:

- (a) to conserve the environmental heritage of the Calderwood site, and
- (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and
- (c) to conserve places of Aboriginal heritage significance.

(2) Requirement for consent

Development consent is required for any of the following:

- (a) demolishing or moving a heritage item,
- (b) altering a heritage item, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
- (c) altering a heritage item that is a building by making structural changes to its interior,
- (d) disturbing or excavating a place of Aboriginal heritage significance,
- (e) erecting a building on land on which a heritage item is located,
- (f) subdividing land on which a heritage item is located.

(3) When consent not required

However, consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature, or is for the maintenance of the heritage item or archaeological site, and
 - (ii) would not adversely affect the significance of the heritage item or archaeological site, or
- (b) the development is limited to the removal of a tree or other vegetation that the relevant council is satisfied is a risk to human life or property, or
- (c) the development is exempt development.

(4) Effect on heritage significance

The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item concerned.

(5) Heritage impact assessment

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

- (a) on which a heritage item is situated, or
- (b) within the vicinity of land on which a heritage item is situated,

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

(6) Places of Aboriginal heritage significance

The consent authority must, before granting consent under this clause to the carrying out of development in a place of Aboriginal heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place, and
- (b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.

(7) Conservation incentives

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 erected, 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

2011 No 10

State Environmental Planning Policy (Major Development) Amendment
(Calderwood) 2010

Schedule 1

Amendment of State Environmental Planning Policy (Major Development)
2005

- (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.
- (8) For the purposes of paragraph (b) of the definition of *heritage item* in clause 2 (1), the location and nature of a heritage item is specified in the following Table:

Table—heritage items

Item name	Address	Property description	Item no
Marshall Mount Methodist Cemetery	Calderwood Road, Calderwood	Lot 1, DP 195342	2
Marshall Mount Homestead and Barn	Marshall Mount Road, Calderwood	Part Lot 2, DP 2534	1

28 Public utility infrastructure

- (1) Development consent must not be granted for development on land within the Calderwood 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 required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.
- (3) In this clause, *public utility infrastructure* includes infrastructure for any of the following:
 - (a) the supply of water,
 - (b) the supply of electricity or gas,
 - (c) the disposal and management of sewage.

29 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 50m.
- (3) This clause does not apply to:
 - (a) land in Zone RE1 Public Recreation, Zone E2 Environmental Conservation or Zone E3 Environmental Management, or
 - (b) land proposed to be developed for the purpose of sex services or restricted premises.
- (4) Despite the provisions of this 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.

30 Arrangements for designated State public infrastructure

- (1) This clause applies to all land at the Calderwood site, but does not apply to any such land if the whole or any part of it is in a special contributions area (as defined by section 93C of the Act).
- (2) The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land to which this clause applies to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.
- (3) Land to which this clause applies must not be subdivided if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the commencement of this Part, unless the Director-General has certified in writing that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.

2011 No 10

State Environmental Planning Policy (Major Development) Amendment
(Calderwood) 2010

Schedule 1

Amendment of State Environmental Planning Policy (Major Development)
2005

- (4) Subclause (2) does not apply in relation to:
 - (a) any lot identified in the certificate as a residue lot, or
 - (b) any lot created by a previous subdivision of land in accordance with this clause, or
 - (c) any lot that is proposed to be reserved or dedicated for public open space, public roads, public utility undertakings, educational facilities, or any other public purpose, or
 - (d) a subdivision for the purpose only of rectifying an encroachment on an existing lot.
- (5) In this clause, ***designated State public infrastructure*** means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of a financial or in-kind contribution by the State) of the following kinds:
 - (a) State and regional roads,
 - (b) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

31 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 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.

32 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 within the Calderwood site in any zone for a temporary purpose 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 Part 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 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 housing estate may exceed 52 days (whether or not consecutive days) in any period of 12 months.
- (5) Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).

33 Interim land use

- (1) Despite any other provision of this Part, development consent may be granted for development on land to which this Part applies for the following purposes:
 - (a) animal boarding or training establishments,
 - (b) extensive agriculture,
 - (c) cellar door premises,
 - (d) farm buildings,
 - (e) farm forestry,
 - (f) farm stay accommodation,
 - (g) rural worker's dwellings,for a maximum period of 10 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 or

2011 No 10

State Environmental Planning Policy (Major Development) Amendment
(Calderwood) 2010

Schedule 1

Amendment of State Environmental Planning Policy (Major Development)
2005

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 an structures will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land.