



New South Wales

# **State Environmental Planning Policy (Major Development) Amendment 2011**

under the

Environmental Planning and Assessment Act 1979

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

BRAD HAZZARD, MP  
Minister for Planning and Infrastructure

## **State Environmental Planning Policy (Major Development) Amendment 2011**

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### **1 Name of Policy**

This Policy is *State Environmental Planning Policy (Major Development) Amendment 2011*.

### **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- (1) This Policy is repealed on the day following the day on which this Policy commences.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]    Clause 6C**

Insert after clause 6B:

**6C    Exclusion of development from Schedules**

- (1) This clause applies to development of a kind described in Schedule 1, 2 or 3 (as referred to in clause 6) if the development has not been the subject of an opinion formed by the Minister under clause 6.
- (2) The Director-General may, on the application of the proponent of development to which this clause applies, certify in writing that the particular development is suitable for assessment under the Act (other than Part 3A of the Act).
- (3) If development of a kind described in Schedule 1, 2 or 3 (as referred to in clause 6) is the subject of a certificate given under this clause:
  - (a) the development is taken not to be included in a class of development specified in that Schedule, and
  - (b) clause 6 ceases to have effect in relation to the development.

**Note.** The effect of this clause is that the development cannot be declared under this Policy to be development to which Part 3A applies and the development will be dealt with under Part 4 or 5 of the Act.

**[2]    Clause 13C Coastal development to which Part applies**

Omit “but not more than 100 lots” from clause 13C (c) and (d) wherever occurring.

**[3]    Clause 13C (e)**

Omit “but not more than 25 lots”.

**[4]    Clause 17**

Insert after clause 16:

**17    Transitional provisions—residential, commercial or retail projects  
and coastal subdivision**

- (1) This Policy continues to apply in respect of the following development for which environmental assessment requirements

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were notified to the proponent on or before 8 April 2011, as if Group 5 of Schedule 1 and clause 1 of Schedule 2 had not been repealed by *State Environmental Planning Policy (Major Development) Amendment 2011*:

- (a) residential, commercial or retail development,
- (b) coastal subdivision development.

**Note.** Environmental assessment requirements include requirements for an application for concept approval or project approval (see subclause (9)), so that this Policy (subject to subclauses (4) and (5)) continues to apply if environmental assessment requirements have been notified at either stage.

- (2) For the purposes of subclause (1), environmental assessment requirements are taken to have been notified to a proponent if the Director-General accepted a document as an environmental assessment under clause 8J of the *Environmental Planning and Assessment Regulation 2000* on or before 8 April 2011 without first adopting environmental assessment requirements under that clause.
- (3) Except as provided by this clause, Part 3A of the Act continues to apply to development referred to in subclause (1), including (but not limited to) section 75W of the Act.
- (4) This clause does not continue the application of this Policy to part of a project if environmental assessment requirements were not notified for the part of the project on or before 8 April 2011.
- (5) This clause does not continue the application of this Policy to development that is a project under Part 3A of the Act if:
  - (a) a concept plan for the project is approved under that Part (whether before or after the commencement of this clause), and
  - (b) the only environmental assessment requirements that were notified for the development on or before 8 April 2011 were requirements for the purposes of the application for approval of the concept plan.
- (6) The declaration of development as a project under Part 3A of the Act is revoked to the extent that this Policy ceases to apply to that development because of *State Environmental Planning Policy (Major Development) Amendment 2011* or this clause.
- (7) Despite any provision of any other environmental planning instrument, if any residential, commercial or retail development or coastal subdivision development the subject of an approval for

a concept plan ceases to be a project under Part 3A of the Act on or after the commencement of this clause the following provisions apply in respect of the development:

- (a) any development within the terms of the approval is taken to be development of a kind that may be carried out with development consent,
  - (b) any development standard for the development that is within the terms of the approval has effect,
  - (c) a consent authority must not grant consent for the whole or any part of the development unless it is satisfied that the development is generally consistent with the provisions of the approval,
  - (d) a consent authority may grant consent for the whole or any part of the development without complying with any requirement under any other environmental planning instrument relating to a master plan.
- (8) Subclause (7) does not have effect with respect to development to the extent that it is inconsistent with an order or direction given by the Minister under section 75P (2) of the Act relating to that development.

**Note.** Under section 75P (1) (b) of the Act the Minister may when approving a concept plan also determine that approval to carry out a project (or a stage of a project) is to be subject to the other provisions of the Act. Section 75P (2) sets out how those provisions (including Part 4) are to apply.

- (9) In this clause:

***coastal subdivision development*** means development:

- (a) of a kind referred to in clause 1 of Schedule 2, as in force immediately before the commencement of *State Environmental Planning Policy (Major Development) Amendment 2011*, or
- (b) that, immediately before that commencement, continued to be development referred to in clause 1 of Schedule 2 because of the operation of clause 16 (2) of this Policy.

***environmental assessment requirements*** means:

- (a) environmental assessment requirements notified under section 75F of the Act, or
- (b) environmental assessment requirements notified under that section (as applied by section 75N of the Act), or

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- (c) environmental assessment requirements accepted by the Director-General as an environmental assessment requirement for a project or part of a project or concept plan under clause 8J of the *Environmental Planning and Assessment Regulation 2000*.

**Note.** Environmental assessment requirements may also be made under section 75P (1) (a) of the Act but are not included in this definition for the purposes of this clause.

***residential, commercial or retail development*** means development:

- (a) of a kind referred to in Group 5 of Schedule 1, as in force immediately before the commencement of the *State Environmental Planning Policy (Major Development) Amendment 2011*, or
- (b) that, immediately before that commencement, continued to be development referred to in Group 5 of Schedule 1 because of the operation of clause 16 (2) of this Policy.

**[5] Schedule 1 Part 3A projects—classes of development**

Omit Group 5.

**[6] Schedule 2 Part 3A projects—specified sites**

Omit clause 1.