



New South Wales

State Environmental Planning Policy (Major Development) Amendment (Edmondson Park South) 2011

under the

Environmental Planning and Assessment Act 1979

The Administrator, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*. (10/21327)

TONY KELLY, MLC
Minister for Planning

State Environmental Planning Policy (Major Development) Amendment (Edmondson Park South) 2011

under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy (Major Development) Amendment (Edmondson Park South) 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- (1) This Policy is repealed on the day following the day on which this Policy commences.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

Schedule 3 State significant sites

Insert in the Schedule with appropriate Part numbering:

Part Edmondson Park South site

Division 1 Preliminary

1 Land to which Part applies

This Part applies to the land identified on the Land Application Map, referred to in this Part as the *Edmondson Park South site*.

2 Interpretation

(1) In this Part:

Flood Planning Map means the State Environmental Planning Policy (Major Development) 2005 Edmondson Park South Flood Planning Map.

Floor Space Ratio Map means the State Environmental Planning Policy (Major Development) 2005 Edmondson Park South Floor Space Ratio Map.

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

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

heritage item means a building, work, archaeological site, tree, place or Aboriginal object:

- (a) shown on the Heritage Map as a heritage item, or
- (b) described in the Table to clause 33.

Heritage Map means the State Environmental Planning Policy (Major Development) 2005 Edmondson Park South Heritage Map.

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

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

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

Lot Size Map means the State Environmental Planning Policy (Major Development) 2005 Edmondson Park South Lot Size Map.

Native Vegetation Protection Map means the State Environmental Planning Policy (Major Development) 2005 Edmondson Park South Native Vegetation Protection Map.

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

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

3 Consent authority

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

4 Maps

- (1) A reference in this Part to a named map adopted by this Part is a reference to a map by that name:
- (a) approved by the Minister when the map is adopted, and
 - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Part to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (4) For the purposes of this Part, a map may be in, and may be kept and made available in, electronic or paper form, or both.

5 Relationship with other environmental planning instruments

- (1) The only environmental planning instruments that apply, according to their terms, to land within the Edmondson Park South site are:
 - (a) this Policy, and
 - (b) all other State environmental planning policies, other than *State Environmental Planning Policy No 1—Development Standards*.
- (2) In the event of any inconsistency between this Part and *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*, this Part prevails to the extent of the inconsistency.

Division 2 Provisions relating to development in Edmondson Park South site

6 Application of Division

- (1) This Division applies to development on land within the Edmondson Park South site, except as provided by subclause (2).
- (2) Clauses 8–14, 16, 21–24, 26, 28, 31–34 and 36 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 Policy, land within the Edmondson Park South site is in one of the following zones if the land is shown on the Land Zoning Map as being within that zone:

- (a) Zone R1 General Residential,
- (b) Zone B4 Mixed Use,
- (c) Zone SP2 Infrastructure,
- (d) Zone RE1 Public Recreation,
- (e) Zone E1 National Parks and Nature Reserves,
- (f) Zone E4 Environmental Living.

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.

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9 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:
environmental protection works; 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; earthworks; food and drink premises; group homes; hostels; kiosks; markets; multi dwelling housing; neighbourhood shops; places of public worship; residential flat buildings; roads; semi-detached dwellings; shop top housing; signage; any other development not specified in subclause (2) or (4)
- (4) Except as otherwise provided by this Part, development for any of the following purposes is prohibited on land within Zone R1 General Residential:
agriculture; air transport facilities; amusement centres; backpackers' accommodation; boat repair facilities; boat sheds; business premises; bulky goods premises; caravan parks; charter and tourism boat facilities; correctional centres; crematoria; depots; entertainment facilities; extractive industries; farm stay accommodation; forestry; freight transport facilities; function centres; highway service centres; home occupations (sex services); hotel or motel accommodation; industrial retail outlets; industries; landscape and gardens supplies; 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; service stations; sex service premises; storage premises; timber and building supplies; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; vehicle sales or hire premises; warehouse and distribution centres; waste or resource management facilities; wholesale supplies.

10 Zone B4 Mixed Use

- (1) The objectives of Zone B4 Mixed Use are as follows:
 - (a) to provide a mixture of compatible land uses,
 - (b) to 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:
environmental protection works.
- (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; earthworks; educational establishments; entertainment facilities; function centres; hotel or motel accommodation; information and education facilities; office premises; passenger transport facilities; recreation facilities (indoor); registered clubs; residential flat buildings; retail premises; roads; seniors housing; shop top housing; any other development not specified in subclause (2) or (4).
- (4) Except as otherwise provided by this Part, development for any of the following purposes is prohibited on land within Zone B4 Mixed Use:
agriculture; air transport facilities; caravan parks; cemeteries; correctional centres; crematoria; depots; extractive industries; forestry; freight transport facilities; home occupations (sex services); industrial retail outlets; industries; residential accommodation; restricted premises; restriction facilities; rural industries; sex service premises; storage premises; transport depots; truck depots; vehicle body repair shops; waste or resource management facilities.

11 Zone SP2 Infrastructure

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

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- (2) Development for any of the following purposes is permitted without development consent on land within Zone SP2 Infrastructure:
nil.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone SP2 Infrastructure:
earthworks; the purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; roads.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone SP2 Infrastructure unless it is permitted by subclause (2) or (3).

12 Zone RE1 Public Recreation

- (1) The objectives of Zone RE1 Public Recreation are as follows:
 - (a) to enable land to be used for public open space or recreational purposes,
 - (b) to provide a range of recreational settings and activities and compatible land uses,
 - (c) to protect and enhance the natural environment for recreational purposes,
 - (d) to provide a sufficient and equitable distribution of public open space to meet the needs of residents.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone RE1 Public Recreation:
environmental protection works.
- (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; earthworks; flood mitigation works; information and education facilities; kiosks; markets; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); restaurants; roads.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone RE1 Public Recreation unless it is permitted by subclause (2) or (3).

13 Zone E1 National Parks and Nature Reserves

- (1) The objectives of Zone E1 National Parks and Nature Reserves are as follows:
 - (a) to enable the management and appropriate use of land that is reserved under the *National Parks and Wildlife Act 1974* or that is acquired under Part 11 of that Act,
 - (b) to enable uses authorised under the *National Parks and Wildlife Act 1974*,
 - (c) to identify land that is to be reserved under the *National Parks and Wildlife Act 1974* and to protect the environmental significance of that land.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone E1 National Parks and Nature Reserves:
uses authorised under the *National Parks and Wildlife Act 1974*.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E1 National Parks and Nature Reserves:
nil.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone E1 National Parks and Nature Reserves unless it is permitted by subclause (2) or (3).

14 Zone E4 Environmental Living

- (1) The objectives of Zone E4 Environmental Living are as follows:
 - (a) to provide for low-impact residential development in areas with special ecological, scientific, cultural or aesthetic values,
 - (b) to ensure that residential development 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 E4 Environmental Living:
home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E4 Environmental Living:
bed and breakfast accommodation; dual occupancies; dwelling houses; earthworks; environmental facilities; environmental

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protection works; flood mitigation works; group homes; health consulting rooms; home-based child care; horticulture; recreation areas; recreation facilities (outdoor); roads; secondary dwellings; signage; swimming pools; water recreation structures; water recycling facilities; waterbodies (artificial).

- (4) Except as otherwise provided by this Part, development for any of the following purposes is prohibited on land within Zone E4 Environmental Living:

industries; service stations; warehouse or distribution centres; any other development not specified in subclause (2) or (3).

15 Prohibited development

Development on land within the Edmondson Park South 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.

16 Subdivision—consent requirements

- (1) Land within the Edmondson Park South 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.

17 Minimum subdivision lot size

- (1) The objectives of this clause are as follows:
- (a) to establish minimum lot sizes for residential development,
 - (b) to ensure that residential development has adequate usable areas for buildings and open space,

- (c) to facilitate and encourage the provision of a range of dwelling types.
- (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 Part.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies must not be less than the minimum size shown on the Lot Size Map in relation to that land.
- (4) Despite subclause (3) and the Lot Size Map:
 - (a) the size of any lot resulting from a subdivision of land for dwelling houses must not be less than 250m², and
 - (b) the size of any lot resulting from a subdivision of land for semi-detached dwellings must not be less than 250m², and
 - (c) the size of any lot resulting from a subdivision of land for dual occupancies must not be less than 500m², and
 - (d) the size of any lot resulting from a subdivision of land for secondary dwellings must not be less than 250m², and
 - (e) the size of any lot resulting from a subdivision of land for attached dwellings must not be less than 125m², and
 - (f) the size of any lot resulting from a subdivision of land for multi dwelling housing must not be less than 1,500m², and
 - (g) the size of any lot resulting from a subdivision of land for residential flat dwellings must not be less than 1,500m².
- (5) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

18 Height of buildings

The height of a building on any land within the Edmondson Park South site is not to exceed the maximum height shown for the land on the Height of Buildings Map.

19 Floor space ratio

- (1) The objectives of this clause are as follows:
 - (a) to establish standards for the maximum development density and intensity of land use,
 - (b) to control building density and bulk in relation to site area,
 - (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain.

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- (2) The maximum floor space ratio of a building on any land within the Edmondson Park South site is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

20 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 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 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.

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(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 Part 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*.

21 **Temporary use of land**

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Part, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that:
 - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this 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 land 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).

22 Interim land use for exhibition and sales office

- (1) Despite any other provision of this Part, development consent may be granted for development on land in Zone R1 General Residential for an exhibition and sales office for a maximum period of 6 years from the date of consent.
- (2) Development consent must not be granted unless the consent authority is satisfied that:
 - (a) the use will not prejudice the subsequent carrying out of development on the land in accordance with this Part and any other applicable environmental planning instrument, and
 - (b) the use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
 - (c) the use and location of any structures related to the use will not adversely impact on environmental attributes, heritage significance, or features of the land, or increase the risk of natural hazards that may affect the land.
- (3) In this clause:
exhibition and sales office means a building or place, used for house and land sales, site offices, advisory services, car parking and other associated purposes.

23 Demolition requires consent

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

Note. If the demolition of a building or work is identified in an applicable environmental planning instrument, such as this Part or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, as exempt development, the Act enables it to be carried out without consent.

24 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

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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 25 metres from any zone boundary.
- (3) This clause does not apply to:
 - (a) land in Zone RE1 Public Recreation or Zone E1 National Parks and Nature Reserves, or
 - (b) land proposed to be developed for the purpose of sex services or restricted premises.
- (4) Despite the provisions of this Part 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) This clause does not prescribe a development standard that may be varied under this Part.

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:
 - (a) land that is shown as “Flood planning area” on the Flood Planning Map, and
 - (b) other 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) is not likely to 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) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of 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 1:00 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

27 Exceptions to development standards—Part 3A projects

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

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- (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 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.

28 Exceptions to development standards—other development

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

- (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 E4 Environmental Living 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.
- (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 a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability*

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Index: BASIX) 2004 applies or for the land on which such
a building is situated.

29 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 Part, the accommodation that is provided to guests must consist of no more than 4 bedrooms.

(2) Home businesses

If development for the purposes of a home business is permitted under this Part, the carrying on of the business must not involve the use of more than 50 square metres of floor area.

(3) Kiosks

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

(4) Neighbourhood shops

If development for the purposes of a neighbourhood shop is permitted under this Part, the retail floor area must not exceed 100 square metres.

(5) Secondary dwellings

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

- (a) 60 square metres,
- (b) 20% of the total floor area of both the self-contained dwelling and the principal dwelling.

30 Architectural roof features

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

- (a) to permit variations to maximum building height standards for roof features of visual interest,
- (b) to ensure that roof features are decorative elements and that the majority of the roof is contained within the maximum building height standard.

- (2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 18 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.

31 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 relevant council.

Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.
- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:
 - (a) development consent, or
 - (b) a permit granted by the relevant council.
- (4) The refusal by the relevant 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 relevant council to grant consent for the carrying out of the activity for which a permit was sought.

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- (5) This clause does not apply to a tree or other vegetation that the relevant 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 relevant council is satisfied is a risk to human life or property.
- (7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:
 - (a) that is or forms part of a heritage item, or
 - (b) that is within a heritage conservation area.

Note. As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 33 will be applicable to any such consent.

- (8) This clause does not apply to or in respect of:
 - (a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003* or that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or
 - (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause, or
 - (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or
 - (d) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying and Spatial Information Act 2002*, or
 - (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

32 Native vegetation areas

- (1) The objective of this clause is to protect and manage native vegetation areas.
- (2) This clause applies to land within a 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*.

- (4) The consent authority must not grant development consent for development on land to which this clause applies unless the consent authority is satisfied that the proposed development will not result in the clearing of any native vegetation (within the meaning of the *Native Vegetation Act 2003*).

33 Heritage conservation

(1) **Objectives**

The objectives of this clause are:

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

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

(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 or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(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 a heritage conservation area, or

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

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

(6) Heritage conservation management plans

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

(7) Archaeological sites

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council of its intention to grant consent, and
(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(8) 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.

(9) Demolition of item of State significance

The consent authority must, before granting consent for the demolition of a heritage item identified on the Heritage Map as being of State significance (other than an item listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council about the application, and

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- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) 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
- (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.

- (11) For the purposes 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 description	Address	Property description	Significance	Item No
Ingleburn Village site—three Riley-Newsum pre-fabricated cottages (moveable items)	Bass Road	Part Lot 1, DP 831152	Local	3
Ingleburn Military Heritage Precinct	Campbelltown Road	Part Lot 2, DP 831152	State	2

Item description	Address	Property description	Significance	Item No
Mont St Quentin Oval, including entry gates	Campbelltown Road	Part Lot 2, 831550	State	1

34 Public utility infrastructure

- (1) Development consent must not be granted for development on land within the Edmondson Park South 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.

35 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.

36 Development control plan

- (1) The objective of this clause is to ensure that development on land within the Edmondson Park South site occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.

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

space, public roads or any other public or environmental protection purpose,

- (c) a subdivision of land in a zone in which the erection of structures is prohibited,
- (d) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.

37 Relevant acquisition authority

- (1) The objective of this clause is to identify, for the purposes of section 27 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991* (***the owner-initiated acquisition provisions***).

Note. If the landholder will suffer hardship if there is any delay in the land being acquired by the relevant authority, section 23 of the *Land Acquisition (Just Terms Compensation) Act 1991* requires the authority to acquire the land.

- (2) The authority of the State that will be the relevant authority to acquire land, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to the land shown on the Land 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"	Relevant council
Zone SP2 Infrastructure and marked "Local Road"	Relevant council
Zone SP2 Infrastructure and marked "Classified Road"	Roads and Traffic Authority
Zone SP2 Infrastructure and marked "Railway"	The corporation constituted under section 8 of the Act
Zone E1 National Parks and Nature Reserves and marked "National Park"	Minister administering the <i>National Parks and Wildlife Act 1974</i>

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- (3) Development on land acquired by an authority of the State under the owner-initiated acquisition provisions may, before it is used for the purpose for which it is reserved, be carried out, with development consent, for any purpose.

38 Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land within the Edmondson Park South site to be carried out in accordance with this Part 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 relevant council or that the relevant council requires to be imposed, or
 - (b) to any prescribed instrument within the meaning of section 183A of the *Crown Lands Act 1989*, or
 - (c) to any conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
 - (d) to any Trust agreement within the meaning of the *Nature Conservation Trust Act 2001*, or
 - (e) to any property vegetation plan within the meaning of the *Native Vegetation Act 2003*, or
 - (f) to any biobanking agreement within the meaning of Part 7A of the *Threatened Species Conservation Act 1995*, or
 - (g) to any planning agreement within the meaning of Division 6 of Part 4 of the Act.
- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
- (4) Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).

Note. This clause does not affect the operation of any conservation agreement between the Commonwealth and this State made under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth.

**Schedule 2 Amendment of State Environmental
Planning Policy (Sydney Region Growth
Centres) 2006**

[1] Clause 7A Development controls for certain precincts

Insert “and Schedule 3 to *State Environmental Planning Policy (Major Development) 2005*” after “2008” in clause 7A (2) (b).

[2] Clause 7A (2) (b)

Omit “plans”. Insert instead “instruments, or parts of instruments,”.