



New South Wales

Standard Instrument (Local Environmental Plans) Amendment (Observatory and Defence Facility) Order 2016

under the

Environmental Planning and Assessment Act 1979

DAVID HURLEY, Governor

I, General The Honourable David Hurley AC DSC (Ret'd), Governor of New South Wales, with the advice of the Executive Council, and in pursuance of section 33A of the *Environmental Planning and Assessment Act 1979*, make the following Order.

Dated, this 8th day of June 2016.

By His Excellency's Command,

ROBERT STOKES, MP
Minister for Planning

Standard Instrument (Local Environmental Plans) Amendment (Observatory and Defence Facility) Order 2016

under the

Environmental Planning and Assessment Act 1979

1 Name of Order

This Order is the *Standard Instrument (Local Environmental Plans) Amendment (Observatory and Defence Facility) Order 2016*.

2 Commencement

This Order commences 56 days after the day on which it is published on the NSW legislation website.

3 Amendment of Standard Instrument (Local Environmental Plans) Order 2006

Clause 4A

Insert after clause 4:

4A Optional provisions may be compulsory in certain cases

An optional provision adopted with respect to a plan may include a statement that the provision is a compulsory provision for the purposes of this clause and in such a case the provision is taken to be a compulsory provision with respect to that plan.

Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

Clauses 5.14 and 5.15

Insert after clause 5.13:

5.14 Siding Spring Observatory—maintaining dark sky [optional]

- (1) The objective of this clause is to protect observing conditions at the Siding Spring Observatory by promoting lighting practices that minimise light pollution.

(2) **Light emissions—general considerations for all development**

Before granting development consent for development on land to which this Plan applies, the consent authority must consider whether the development is likely to adversely affect observing conditions at the Siding Spring Observatory, taking into account the following matters:

- (a) the amount and type of light to be emitted as a result of the development and the measures to be taken to minimise light pollution,
- (b) the impact of those light emissions cumulatively with other light emissions and whether the light emissions are likely to cause a critical level to be reached,
- (c) whether outside light fittings associated with the development are shielded light fittings,
- (d) the measures to be taken to minimise dust associated with the development,
Note. Dust tends to scatter light and increase light pollution.
- (e) the *Dark Sky Planning Guideline* prepared by the Secretary and published in the Gazette.

(3) **Development on land within 18 kilometres of observatory**

Development consent is required for all lit development on land less than 18 kilometres from the Siding Spring Observatory.

- (4) The consent authority must consult with the observatory director before granting development consent to lit development on land less than 18 kilometres from the Siding Spring Observatory.
- (5) The consent authority must not (except with the concurrence of the Secretary) grant development consent to development on land less than 18 kilometres from the Siding Spring Observatory if the consent authority considers that the development is likely to result in any one or more of the following:
- (a) an outside light fitting other than a shielded light fitting,
 - (b) an outside light fitting emitting light of more than:
 - (i) if the development is on land less than 12 kilometres from the Siding Spring Observatory—900 lumens, or
 - (ii) in any other case—1,800 lumens,
 - (c) more than 4 shielded outside light fittings,
 - (d) light of more than 7,200 lumens being emitted.
- (6) The consent authority must not grant development consent to lit development on land less than 18 kilometres from the Siding Spring Observatory unless the

consent authority is satisfied that the development will incorporate designs that minimise light pollution and measures that will prevent the escape of light at night through skylights, windows or other openings.

(7) **Development on land 18 kilometres or more from observatory**

The consent authority must not (except with the concurrence of the Secretary) grant development consent to development on land that is 18 kilometres or more from the Siding Spring Observatory if the consent authority considers that the development is likely to result in the emission of light of 1,000,000 lumens or more.

(8) The consent authority must consult with the observatory director before granting development consent to development for the purposes of a dwelling house, secondary dwelling or dual occupancy on land that is 18 kilometres or more from the Siding Spring Observatory if the consent authority considers that the development is likely to result in a dwelling having:

- (a) an outside light fitting other than a shielded light fitting, or
- (b) more than 7 shielded outside light fittings or more than 5 such light fittings that are not automatic light fittings.

(9) The consent authority must consult with the observatory director before granting development consent to development (other than development for the purposes of a dwelling house, secondary dwelling or dual occupancy) on land that is 18 kilometres or more from the Siding Spring Observatory if the consent authority considers that the development is likely to result in the emission of light of 50,000 lumens or more.

(10) **Granting concurrence**

The Secretary must take the following into account in deciding whether to grant concurrence under this clause:

- (a) any comments made by the observatory director in relation to the development,
- (b) the effect the development would have on observing conditions at the Siding Spring Observatory,
- (c) the quantity of artificial light in the night sky measured through a telescope at the Siding Spring Observatory on or about the date the development application is made and the relationship of that level to the critical level,
- (d) whether any public interest in permitting the development outweighs the public interest in preserving the observing conditions at the Siding Spring Observatory.

(11) A reference in this clause to light emitted as a result of development for the purposes of a building or work includes light emitted from any other building or work that is to be used as part of or in connection with that building or work.

(12) A requirement in this clause to consult with the observatory director in respect of development is a requirement to give written notice of the development to the observatory director and to take into account any comments received from the observatory director within 21 days after the notice is given.

(13) Clause 4.6 does not allow development consent to be granted for development that would contravene this clause.

(14) In this clause:

automatic light fitting means a light fitting that is activated by a sensor and switches off automatically after a period of time.

critical level means the level at which the quantity of artificial light in the night sky measured through a telescope at the Siding Spring Observatory is greater than:

- (a) if the telescope is inclined at 30 degrees from the horizon—10% of the surface brightness of the night sky attributable to natural light sources, at the time of the solar cycle when the sky is at its darkest, or
- (b) if the telescope is inclined at 90 degrees from the horizon—3% of the surface brightness of the night sky attributable to natural light sources, at the time of the solar cycle when the sky is at its darkest.

horizontal plane, in relation to a light fitting, means the horizontal plane passing through the centre of the light source (for example, the bulb) of the light fitting.

light pollution means brightening of the night sky caused by artificial light.

lit development means development that is likely to result in the emission of light.

observatory director means the Director of the Research School of Astronomy and Astrophysics at the Australian National University.

outside light fitting means a light fitting that is attached or fixed outside, including on the exterior, of a building.

shielded light fitting means a light fitting that does not permit light to shine above the horizontal plane.

Siding Spring Observatory means the land owned by the Australian National University at Siding Spring and the buildings and equipment situated on that land.

Direction. This clause may be adopted without subclause (9).

5.15 Defence communications facility [optional]

- (1) The objective of this clause is to preserve the optimum operational capability of the defence receiver station established by the Commonwealth Department of Defence on land near Morundah.
- (2) Before determining a development application for development on defence communications facility buffer land, the consent authority must consider Australian and New Zealand Standard AS/NZS 5070.1:2008, *Siting and operation of radiocommunications facilities - General guidelines for fixed, mobile and broadcasting facilities including fixed location satellite earth stations independent of the operating frequency*.
- (3) Development consent must not be granted for any of the following purposes on defence communications facility buffer land unless the consent authority is satisfied that the Secretary of the Commonwealth Department of Defence has been consulted about the proposed development and has indicated that he or she is of the opinion that the development will not adversely affect the optimum operational capability of the defence receiver station:
 - (a) any purpose which involves equipment causing an electromagnetic emission to which Australian and New Zealand Standard AS/NZS CISPR 11:2011, *Industrial, scientific and medical equipment—Radio-frequency disturbance characteristics—Limits and methods of measurement* applies,

- (b) any industry which causes or results in any electromagnetic emission which is likely to cause degradation to radio reception at the defence communications facility,
 - (c) permanent radio transmitters,
 - (d) power transmission lines of 66 kilovolts or greater,
 - (e) electric powered railways (but not diesel-electric powered railways),
 - (f) health services facilities,
 - (g) motor body repair workshops,
 - (h) veterinary hospitals.
- (4) Clause 4.6 does not allow development consent to be granted for development that would contravene this clause.
- (5) In this clause:
- defence communications facility buffer land*** means land shown as defence communications facility buffer land on the Defence Communications Facility Buffer Map.
- Defence Communications Facility Buffer Map*** means the [*Name of local government area or other relevant name*] Local Environmental Plan [*Year*] Defence Communications Facility Buffer Map.