



New South Wales

# **State Environmental Planning Policy Amendment (Frenchs Forest Precinct) 2021**

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*.

**ROB STOKES, MP**  
Minister for Planning and Public Spaces

## **State Environmental Planning Policy Amendment (Frenchs Forest Precinct) 2021**

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### **1 Name of Policy**

This Policy is *State Environmental Planning Policy Amendment (Frenchs Forest Precinct) 2021*.

### **2 Commencement**

This Policy commences on 1 June 2022 and is required to be published on the NSW legislation website.

### **3 Maps**

The maps adopted by *Warringah Local Environmental Plan 2011* are amended or replaced, as the case requires, by the maps approved by the Minister on the making of this Policy.

### **4 Repeal of Policy**

This Policy is repealed on the day following the day on which this Policy commences.

## Schedule 1      **Amendment of Warringah Local Environmental Plan 2011**

### [1]    **Clause 4.5**

Omit the clause. Insert instead—

#### **4.5    Calculation of floor space ratio and site area**

##### (1)    **Objectives**

The objectives of this clause are as follows—

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

##### (2)    **Definition of “floor space ratio”**

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

##### (3)    **Site area**

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

- (a)    if the proposed development is to be carried out on only one lot, the area of that lot, or
- (b)    if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common 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 development consent is granted to development on a site comprised of 2 or more lots, a condition of the consent may require a covenant to be registered that prevents the creation of floor area on a lot (the restricted lot) if the consent authority is satisfied that an equivalent quantity of floor area will be created on another lot only because the site included the restricted lot.

(10) **Covenants affect consolidated sites**

If—

(a) a covenant of the kind referred to in subclause (9) applies to any land (*affected land*), and

(b) proposed development relates to the affected land and other land that together comprise the site of the proposed development,

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

(11) **Definition**

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

**[2] Clause 4.6 Exceptions to development standards**

Insert after clause 4.6(8)(b)—

(ba) clause 4.4, to the extent that it applies to land identified on the Key Sites Map as Site F, Site G, Site H or Site I,

**[3] Clause 4.6(8)(d)**

Insert after clause 4.6(8)(c)—

(d) clause 6.7, to the extent that it applies to land identified on the Key Sites Map as Site F or Site G.

**[4] Clause 5.1 Relevant acquisition authority**

Insert at the end of the table in clause 5.1(2)—

Zone R2 Low Density Residential and Council  
marked "Local road"

**[5] Clause 6.11**

Insert after clause 6.10—

**6.11 Affordable housing**

- (1) This clause applies to development in an affordable housing contribution area that involves—
  - (a) the erection of a new building with a gross floor area of more than 200 square metres, or
  - (b) alterations to an existing building that will result in the creation of more than 200 square metres of gross floor area intended to be used for residential purposes, or
  - (c) alterations to an existing building and the consequent creation, whether for the same or a different purpose, of more than 100 square metres of gross floor area.
- (2) Development consent must not be granted unless the consent authority is satisfied that at least the percentage of the gross floor area of the building used for the purposes of residential accommodation, shown in the following table, will be used for the purposes of affordable housing—

<b>Location of building</b>	<b>Percentage of gross floor area used for purposes of residential accommodation</b>
Frenchs Forest Precinct—Site F Affordable Housing Contribution Area	15%
Frenchs Forest Precinct—Site G Affordable Housing Contribution Area	10%
Frenchs Forest Precinct—Site I Affordable Housing Contribution Area	10%

- (3) The consent authority may, when granting development consent to development to which this clause applies, impose a condition requiring a contribution equivalent to the applicable affordable housing levy contribution for the development.
- (4) A condition imposed under this clause must provide for the affordable housing levy contribution to be satisfied—
  - (a) by dedication in favour of the Council of land comprising—
    - (i) 1 or more dwellings, each having a gross floor area of not less than 50 square metres, with any remainder paid as a monetary contribution to the Council, or
    - (ii) other land approved by the Council in accordance with the Affordable Housing Contributions Scheme, with any remainder paid as a monetary contribution to the Council, or
  - (b) if the person chooses, by monetary contribution paid to the Council.
- (5) The rate at which a dedication of land or monetary contribution is taken to be equivalent to the relevant floor area for the purposes of the affordable housing

levy contribution is to be calculated in accordance with the Affordable Housing Contributions Scheme.

(6) In this clause—

**affordable housing contribution area** means 1 of the following areas shown on the Affordable Housing Contributions Scheme Map—

- (a) Frenchs Forest Precinct—Site F Affordable Housing Contribution Area,
- (b) Frenchs Forest Precinct—Site G Affordable Housing Contribution Area,
- (c) Frenchs Forest Precinct—Site I Affordable Housing Contribution Area.

**Affordable Housing Contributions Scheme** means the *Affordable Housing Contributions Scheme* adopted by the Council on 28 September 2021.

**affordable housing levy contribution**, in relation to development on a site, means the percentage of the gross floor area of the building used for the purposes of residential accommodation on the relevant site shown in the table to subclause (2).

## [6] Part 8

Insert after Part 7—

# Part 8 Frenchs Forest Precinct

## 8.1 Definitions

In this Part—

**Frenchs Forest Precinct** means the land identified on the Precincts Map as the Frenchs Forest Precinct.

**Site F** means the land identified on the Key Sites Map as Site F.

**Site G** means the land identified on the Key Sites Map as Site G.

**Site H** means the land identified on the Key Sites Map as Site H.

**Site I** means the land identified on the Key Sites Map as Site I.

## 8.2 Land to which this Part applies

This Part applies to land in the Frenchs Forest Precinct.

## 8.3 Objectives for development in Frenchs Forest Precinct

The objectives of this Part are as follows—

- (a) to facilitate development in accordance with the objectives and principles of the *Frenchs Forest 2041 Place Strategy*,
- (b) to promote design excellence in relation to buildings, open space and public domain areas,
- (c) to ensure a balance between the provision of high quality housing and a mix of retail, business, employment, civic, cultural and recreational facilities,
- (d) to accommodate additional employment opportunities, service functions and space for business,
- (e) to ensure development positively contributes to the visual quality and pedestrian comfort of the public domain and provides a seamless integration between public and private spaces,

- (f) to ensure development is designed with consideration of transport infrastructure,
- (g) to ensure development is sustainable and contributes to reducing greenhouse gas emissions,
- (h) to ensure high quality landscaped open space.

#### **8.4 Development control plans**

- (1) The objective of this clause is to ensure that development on land in the Frenchs Forest Precinct is carried out in accordance with a site-specific development control plan.
- (2) Development consent must not be granted to development on land in the Frenchs Forest Precinct unless a development control plan has been prepared for the land that provides for the following—
  - (a) built form controls, including the maximum number of storeys and minimum setbacks for buildings,
  - (b) measures to ensure development does not result in a negative impact on the character of surrounding land,
  - (c) pedestrian access, including through-site links,
  - (d) landscaping of open space,
  - (e) waste management.

#### **8.5 Design excellence—Sites F, G and I**

- (1) This clause applies to development that—
  - (a) is on Site F, Site G or Site I, and
  - (b) involves the erection of a new building or external alterations to an existing building.
- (2) Development consent must not be granted unless the consent authority considers that the development exhibits design excellence.
- (3) In considering whether the development exhibits design excellence, the consent authority must consider the following—
  - (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
  - (b) whether the form and external appearance of the development will improve the quality and amenity of the public domain,
  - (c) whether the development detrimentally impacts on view corridors,
  - (d) how the development addresses the following matters—
    - (i) the suitability of the land for development,
    - (ii) existing and proposed uses and use mix,
    - (iii) heritage issues and streetscape constraints,
    - (iv) the relationship of the development with other existing or proposed development on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
    - (v) bulk, massing and modulation of buildings,
    - (vi) street frontage heights,
    - (vii) environmental impacts including overshadowing, wind and reflectivity,

- (viii) the achievement of the principles of ecologically sustainable development,
  - (ix) pedestrian, cycle, vehicular and service access, circulation and requirements,
  - (x) the impact on, and proposed improvements to, the public domain,
  - (xi) the quality and integration of landscape design.
- (4) Development consent must not be granted to development in relation to a building that is, or will, be higher than 12 metres or 3 storeys, or both, unless—
- (a) a design review panel has reviewed the development, and
  - (b) the consent authority considers the findings of the panel.
- (5) In this clause—
- design review panel* means a panel of 3 or more persons established by the consent authority for the purposes of this clause.

#### 8.6 Minimum site areas—Sites G, H and I

Development consent must not be granted to development in a site and zone shown in Columns 1 and 2 of the following table, for a purpose shown in Column 3, unless the site area is equal to or greater than the area shown in Column 4—

Column 1	Column 2	Column 3	Column 4
Site G	Zone R3 Medium Density Residential Zone B4 Mixed Use	Multi dwelling housing, residential flat buildings, shop top housing	1,400 square metres
Site H	Zone R2 Low Density Residential	Dual occupancies (attached), semi-detached dwellings	450 square metres
Site H	Zone R2 Low Density Residential	Attached dwellings	225 square metres per dwelling
Site I	Zone R3 Medium Density Residential Zone B1 Neighbourhood Centre	Multi dwelling housing, residential flat buildings, shop top housing	2,000 square metres

#### 8.7 Minimum street frontages—Sites G, H and I

Development consent must not be granted to development in a site and zone shown in Columns 1 and 2 of the following table, for a purpose shown in Column 3, unless the street frontage of the site area is equal to or greater than the length shown in Column 4—

Column 1	Column 2	Column 3	Column 4
Site G	Zone R3 Medium Density Residential Zone B4 Mixed Use	Residential flat buildings, shop top housing	30 metres



Column 1	Column 2	Column 3	Column 4
Site H	Zone R2 Low Density Residential	Dual occupancies (attached), semi-detached dwellings	15 metres
Site H	Zone R2 Low Density Residential	Attached dwellings	7.5 metres per dwelling
Site I	Zone R3 Medium Density Residential Zone B1 Neighbourhood Centre	Multi dwelling housing, residential flat buildings, shop top housing	45 metres

#### 8.8 Deep soil zone—Site F

- (1) Development consent must not be granted to development on Site F unless the consent authority is satisfied the development will not result in less than 5,500 square metres of deep soil zone in Site F.
- (2) In this clause—  
*deep soil zone* means a landscaped area with no building above or below the ground, but does not include an area used or intended to be used for a driveway or parking.

#### 8.9 Additional floor space for certain BASIX affected buildings—Site F

- (1) A BASIX affected building on land in Site F may exceed the maximum floor space ratio shown for the land on the Floor Space Ratio Map by 0.15:1 if the building—
  - (a) exceeds the BASIX commitment for energy for the building by at least 15 points, and
  - (b) exceeds the BASIX commitment for water for the building by at least 20 points.
- (2) In this clause—  
*BASIX affected building* has the same meaning as in the *Environmental Planning and Assessment Regulation 2000*.  
*BASIX commitment* means a commitment set out in a BASIX certificate within the meaning of the *Environmental Planning and Assessment Regulation 2000*.

#### 8.10 Power lines—Site G

In deciding whether to grant development consent to development on Site G, the consent authority must consider whether the development includes adequate measures to ensure that existing power lines on Site G will be relocated underground.

#### 8.11 Relocation of Frenchs Forest Police Station

- (1) This clause applies to the following development—
  - (a) development that is or involves the relocation of the Frenchs Forest Police Station to Site F,
  - (b) development on Site F subsequent to the relocation of the Frenchs Forest Police Station to Site F.

- (2) The gross floor area of the relocated Frenchs Forest Police Station is taken to be zero for the purposes of calculating a gross floor area or floor space ratio under this Plan.

**[7] Schedule 1 Additional permitted uses**

Insert after clause 23—

**24 Use of certain land at Frenchs Forest Road West, Frenchs Forest**

- (1) This clause applies to certain land at Frenchs Forest Road West, Frenchs Forest, shown as “Area 24” on the Additional Permitted Uses Map.
- (2) Development for the following purposes is permitted with development consent—
- (a) business premises,
  - (b) health consulting rooms that are located at ground floor level,
  - (c) health services facilities that are community health services facilities,
  - (d) medical centres,
  - (e) office premises,
  - (f) shop top housing.

**25 Use of certain land at Karingal Crescent, Frenchs Forest**

- (1) This clause applies to certain land at Karingal Crescent, Frenchs Forest, shown as “Area 25” on the Additional Permitted Uses Map.
- (2) Development for the following purposes is permitted with development consent—
- (a) attached dwellings,
  - (b) dual occupancies (attached),
  - (c) semi-detached dwellings.
- (3) The subdivision of land may result in a lot with a size of not less than 225 square metres if—
- (a) the development involving the subdivision is for the purposes of semi-detached dwellings or attached dwellings, and
  - (b) a single development application is submitted for the proposed subdivision and proposed land use.

**[8] Dictionary**

Insert in alphabetical order—

***Affordable Housing Contributions Scheme Map*** means the Warringah Local Environmental Plan 2011 Affordable Housing Contributions Scheme Map.

***Precincts Map*** means the Warringah Local Environmental Plan 2011 Precincts Map.