

State Environmental Planning Policy (Sydney Region Growth Centres) 2006

[2006-418]



New South Wales

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New South Wales

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State Environmental Planning Policy (Sydney Region Growth Centres) 2006



New South Wales

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* in accordance with the recommendation made by the Minister for Planning. (90380891)

FRANK SARTOR, M.P., Minister for Planning

Part 1 Preliminary

1 Name of Policy

This Policy is *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*.

2 Aims of Policy

The aims of this Policy are (in conjunction with amendments to the regulations under the Act relating to precinct planning) as follows:

- (a) to co-ordinate the release of land for residential, employment and other urban development in the North West and South West growth centres of the Sydney Region,
- (b) to enable the Minister from time to time to designate land in those growth centres as ready for release for development,
- (c) to provide for comprehensive planning for those growth centres,
- (d) to enable the establishment of vibrant, sustainable and liveable neighbourhoods that provide for community well-being and high quality local amenity,
- (e) to provide controls for the sustainability of land in those growth centres that has conservation value,
- (f) to provide for the orderly and economic provision of infrastructure in and to those growth centres,
- (g) to provide development controls in order to protect the health of the waterways in those growth centres,

- (h) to protect and enhance land with natural and cultural heritage value,
- (i) to provide land use and development controls that will contribute to the conservation of biodiversity.

Note—

This Policy provides the initial environmental planning instrument component of the *Metropolitan Strategy* released on 4 December 2005 for the release of land for urban and employment development in areas suitable for growth in the Sydney Region (with more detailed land use and other development control components to be progressively included on completion of the planning process in precincts released for urban development from time to time under clause 276 of the *Environmental Planning and Assessment Regulation 2000*).

3 Definitions

- (1) In this Policy:

environmental facility means a building or place which provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides, or the like, and any associated display structures.

flood prone and major creeks land means the land in a growth centre precinct shown as flood prone and major creeks land and hatched blue on the map marked “*Sydney Region Growth Centres Development Control Map—North West Growth Centre*” or on the map marked “*Sydney Region Growth Centres Development Control Map—South West Growth Centre*”.

Note—

The maps are based on information provided by relevant local councils and State agencies. The extent of flooding on the land shown as flood prone and major creeks is an estimate only. Inquiries should be made with relevant local councils to determine the extent of flood affectation. The extent of flooding is subject to review in the precinct planning process relating to the land concerned.

growth centre means the North West Growth Centre with boundaries as shown in red on the map marked “*Sydney Region Growth Centres Precinct Boundaries Map—North West Growth Centre*” or the South West Growth Centre with boundaries as shown in red on the map marked “*Sydney Region Growth Centres Precinct Boundaries Map—South West Growth Centre*”.

growth centre precinct means a precinct shown on the map marked “*Sydney Region Growth Centres Precinct Boundaries Map—North West Growth Centre*” or the map marked “*Sydney Region Growth Centres Precinct Boundaries Map—South West Growth Centre*”.

growth centre structure plan means the plan (including maps and explanatory notes) for the North West Growth Centre or the South West Growth Centre, identified by the Minister, on the commencement of this Policy, as the structure plan for the growth centre.

Note—

The structure plan for a growth centre identifies:

- (a) the general pattern and strategic direction of development in the growth centre over the next 30 years, and
- (b) the areas of future urban and employment development that are potentially available for release, and
- (c) the areas of future regional open space and of environmentally constrained land, and
- (d) future major infrastructure and transport routes (which are to be part of a more detailed and comprehensive infrastructure plan referred to in clause 276 of the *Environmental Planning and Assessment Regulation 2000*).

land use zoning map means the map marked “*Sydney Region Growth Centres Zoning Map—North West Growth Centre*” or the map marked “*Sydney Region Growth Centres Zoning Map—South West Growth Centre*”.

public entertainment has the same meaning as in the *Local Government Act 1993*.

temporary structure has the same meaning as in the *Local Government Act 1993*.

the Act means the *Environmental Planning and Assessment Act 1979*.

transitional land means land in a growth centre precinct shown as transitional land and hatched pink on the map marked “*Sydney Region Growth Centres Development Control Map—North West Growth Centre*” or on the map marked “*Sydney Region Growth Centres Development Control Map—South West Growth Centre*”.

- (2) A reference in this Policy to a map or growth centre structure plan is a reference to a map or plan deposited in the Department.
- (3) Notes included in this Policy do not form part of this Policy.

4 Consent authority

The consent authority for the purposes of this Policy is (subject to the Act) the council of the area in which the land concerned is situated.

Note—

The Act enables an environmental planning instrument to specify a Minister or another public authority (such as the Growth Centres Commission) to be the consent authority for all or any particular kind of development in that zoned land. The Minister for Planning can also become the approval authority for development if it is declared to be a project under Part 3A of the Act.

5 Land to which Policy applies

This Policy applies to land in a growth centre.

6 Relationship with other environmental planning instruments

- (1) Subject to section 74 (1) of the Act, in the event of an inconsistency between this

Policy and another environmental planning instrument whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.

(2) The *Sydney Regional Environmental Plan No 19—Rouse Hill Development Area* is amended:

(a) by inserting at the end of clause 3 the following:

(2) However, this plan does not apply to land that is within:

(a) a precinct of a growth centre released for urban development under clause 275 of the *Environmental Planning and Assessment Regulation 2000*, or

(b) the cultural heritage landscape area to which Part 7 of the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* applies.

(b) by omitting clause 14.

Part 2 Land use and other development controls resulting from precinct planning

7 Controls applying to precincts after finalisation of precinct planning process

Schedule 1 (which sets out the provisions applying to the carrying out of development in a precinct) has effect.

Note—

The *Environmental Planning and Assessment Regulation 2000* (clauses 275 and 276) makes provision with respect to the staged release of precincts for urban development in the Sydney Region (including with respect to development assessment during the precinct planning process). On completion of the planning process for a precinct, relevant land use and other development controls are to be included in Schedule 1 or other provisions of this Policy. On the commencement of this Policy, Schedule 1 was blank.

Part 3 Land Use—Environment Conservation and Recreation Zones

8 Application of Part and of other planning instruments

(1) This Part applies to land within a growth centre precinct that is zoned under this Part.

(2) Land that is zoned under this Part is not subject to the provisions of any environmental planning instrument (other than a State environmental planning policy or regional environmental plan) applying to the land concerned, except to the extent that this Policy otherwise provides.

9 Land use zones

The land use zones under this Part are as follows:

Environment Conservation

Public Recreation—Regional

Public Recreation—Local

10 Objectives for development in land use reservation zones

- (1) The objectives for development in each land use reservation zone are set out in the Table to this clause.
- (2) The consent authority must have regard to the objectives for development in any such zone when determining a development application in respect of land within the zone.

Table

Environment Conservation Zone

- (a) to protect and restore areas of special ecological, scientific or aesthetic values,
- (b) to conserve biological diversity, native vegetation corridors, aboriginal heritage or cultural values of the land, and its scenic qualities.

Public Recreation—Regional Zone

- (a) to enhance, restore and protect the natural and cultural heritage values of the land,
- (b) to enable the land to be used for regional open space or recreational purposes that are consistent with the protection of its natural and cultural heritage values.

Public Recreation—Local Zone

- (a) to enhance, restore and protect the natural and cultural heritage values of the land,
- (b) to enable the land to be used for public open space or recreational purposes that are consistent with the protection of its natural and cultural heritage values.

11 Zoning of land to which Part applies

For the purposes of this Part, land is within the land use zones shown on the land use zoning map.

12 Land use table for zones to which Part applies

- (1) The land use table set out at the end of this clause specifies the following for each land use zone:

- (a) development that may be carried out without consent,
- (b) development that may be carried out only with consent,
- (c) development that is prohibited.

(2) This clause is subject to the other provisions of this Policy.

Land use table

Environment Conservation Zone

- (1) **Permitted without consent** Development permitted by or under the *National Parks and Wildlife Act 1974* (but only if the land is reserved under that Act); development for the purpose of eradicating noxious weeds in accordance with the *Noxious Weeds Act 1993*; development for public utility installations.
- (2) **Permitted with consent** Development for advertisements, advertising structures, drainage, earthworks, entertainment facilities, environmental protection works, flood mitigation works, kiosks associated with environmental facilities or recreation areas, recreation areas or restaurants associated with environmental facilities or recreation areas that seat not more than 50 people, telecommunication facilities, telecommunication networks or temporary structures.
- (3) **Prohibited** Any other development.

Public Recreation—Regional Zone

- (1) **Permitted without consent** Development permitted by or under the *National Parks and Wildlife Act 1974* (but only if the land is reserved under that Act); development for the purpose of eradicating noxious weeds in accordance with the *Noxious Weeds Act 1993*; development for public utility installations.
- (2) **Permitted with consent** Development for advertisements, advertising structures, drainage, earthworks, entertainment facilities, environmental protection works, flood mitigation works, kiosks associated with environmental facilities, public entertainment, recreation areas, recreation facilities, telecommunication facilities, telecommunication networks or temporary structures.
- (3) **Prohibited** Any other development.

Public Recreation—Local Zone

- (1) **Permitted without consent** Development permitted by or under the *National Parks and Wildlife Act 1974* (but only if the land is reserved under that Act); development for the purpose of eradicating noxious weeds in accordance with the *Noxious Weeds Act 1993*; development for public utility installations.

- (2) **Permitted with consent** Development for advertisements, advertising structures, drainage, earthworks, entertainment facilities, environmental protection works, flood mitigation works, kiosks associated with environmental facilities, public entertainment, recreation areas, recreation facilities, telecommunication facilities, telecommunication networks or temporary structures.
- (3) **Prohibited** Any other development.

13 Additional permitted uses

- (1) Despite anything to the contrary in this Part, development described or referred to in Schedule 2 may be carried out on land zoned under this Part:
 - (a) with consent, or
 - (b) if the Schedule so provides—without consent.
- (2) The consent authority must have regard to the objectives for development in the zone concerned when determining a development application in respect of any such development.

Note—

On the commencement of this Policy, Schedule 2 was blank.

14 Development for previously permitted uses of land

- (1) Despite anything to the contrary in this Part, the consent authority may grant consent to the carrying out of development on land zoned under this Part that is not otherwise permitted by this Part if:
 - (a) the development is of a kind that could be carried out on the land under an applicable environmental planning instrument immediately before the commencement of this Policy, and
 - (b) the relevant public authority referred to in clause 15 that may be required to acquire the land grants concurrence to the proposed development, and
 - (c) the development is consistent with the aims of this Policy.
- (2) In deciding whether to grant concurrence to proposed development under this clause, the relevant public authority must take the following matters into consideration:
 - (a) the need to carry out development on the land for the purposes for which the land is zoned under this Part,
 - (b) the imminence of acquisition of the land by the public authority,
 - (c) the likely additional cost to the public authority resulting from the carrying out of the proposed development.

15 Acquisition of land zoned under this Part

The authority of the State that will be the relevant authority to acquire any land zoned under this Part, if the land is required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991*, is:

- (a) in the case of land within the Environment Conservation Zone or the Public Recreation—Regional Zone—the corporation constituted under section 8 (1) of the Act, except as provided by paragraph (b), or
- (b) in the case of particular land within the Environment Conservation Zone or the Public Recreation—Regional Zone—the Growth Centres Commission if that Commission is designated as the relevant authority for that particular land by agreement in writing between that Commission and the corporation constituted under section 8 (1) of the Act, or
- (c) in the case of land within the Public Recreation—Local Zone—the council of the area in which the land is situated.

Part 4 Development controls—general

16 Development applications in growth centres—matters for consideration until finalisation of precinct planning for land

- (1) Until provisions have been included in Schedule 1 with respect to the development of the land, consent is not to be granted to the carrying out of development on land within a growth centre unless the consent authority has taken into consideration the following:
 - (a) whether the proposed development will preclude the future urban and employment development land uses identified in the relevant growth centre structure plan,
 - (b) whether the extent of the investment in, and the operational and economic life of, the proposed development will result in the effective alienation of the land from those future land uses,
 - (c) whether the proposed development will result in further fragmentation of land holdings,
 - (d) whether the proposed development is incompatible with desired land uses in any draft environmental planning instrument that proposes to include provisions in Schedule 1 with respect to the land,
 - (e) whether the proposed development is consistent with the precinct planning strategies and principles set out in any publicly exhibited document that is relevant to the development,

- (f) whether the proposed development will hinder the orderly and co-ordinated provision of infrastructure that is planned for the growth centre,
- (g) in the case of transitional land—whether (in addition) the proposed development will protect areas of aboriginal heritage, ecological diversity or biological diversity as well as protecting the scenic amenity of the land.

(2) This clause does not apply to land zoned under Part 3.

17 Referral to Growth Centres Commission after release of precinct

- (1) This clause applies to land within a growth centres precinct that has been released by the Minister under the *Environmental Planning and Assessment Regulation 2000* for urban development, and so applies until provisions have been included in Schedule 1 with respect to the development of the land.
- (2) The consent authority must, in the case of a development application for the carrying out of development (not being for a single residential dwelling):
 - (a) with a capital investment value of more than \$500,000, or
 - (b) in respect of land that has an area of more than 2 hectares, or
 - (c) that is a subdivision of land (being a subdivision that creates 2 or more lots),refer the application to the Growth Centres Commission for comment.

Note—

The *Environmental Planning and Assessment Regulation 2000* (clause 275) provides that a development application referred to in this subclause cannot be made unless it is accompanied by an assessment of the consistency of the proposed development with the relevant growth centre structure plan.

- (3) The consent authority must take any comments received from the Growth Centres Commission (within 21 days after the development application was referred to the Commission for comment) into consideration when determining whether to grant consent to any such development.
- (4) For the purposes of this clause, the capital investment value of development includes all costs necessary to establish and operate the development, including the design and construction of buildings, structures, associated infrastructure and fixed or mobile plant (but excluding land costs).

18 Water recycling and conservation

- (1) This clause applies to land within a growth centre:
 - (a) that is serviced by a water recycling plant, or
 - (b) that will be serviced by a water recycling plant as soon as the plant becomes operational.

- (2) A consent authority must not grant consent to the carrying out of development on land unless the consent authority is satisfied that recycled water from the water recycling plant will be provided to the development.
- (3) However, the consent authority may grant consent if it is satisfied that the development will be provided with recycled water from a water recycling or water conservation system approved by the Minister and specified in Schedule 3.

Note—

On the commencement of this Policy, Schedule 3 was blank.

Part 5 Development controls—flood prone and major creeks land

19 Application of Part

This Part applies to development requiring consent that is carried out on flood prone and major creeks land.

20 Development on flood prone and major creeks land—additional heads of consideration

Consent is not to be granted to the carrying out of development to which this Part applies unless the consent authority has taken the following into consideration:

- (a) whether or not the development will adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties,
- (b) whether or not the development will alter flow distributions and velocities to the detriment of other properties or the environment of the floodplain,
- (c) whether the development will enable safe occupation of the flood prone and major creeks land,
- (d) whether or not the development will detrimentally affect the floodplain environment or cause avoidable erosion, siltation, salinity, destruction of riparian vegetation or a reduction in the stability of the riverbank/watercourse,
- (e) whether or not the development will be likely to result in unsustainable social and economic costs to the flood affected community or general community, as a consequence of flooding,
- (f) whether or not the development is compatible with the flow conveyance function of the floodway,
- (g) whether or not the development is compatible with the flood hazard,
- (h) in the case of development consisting of the excavation or filling of land, whether or not the development:

- (i) will detrimentally affect the existing drainage patterns and soil stability in the locality, and
- (ii) will significantly impact on the likely future use or redevelopment of the land, and
- (iii) will adversely impact on the existing and likely amenity of adjoining properties, and
- (iv) will minimise the disturbance of relics, and
- (v) will adversely impact on any watercourse, drinking water catchment or environmentally sensitive area.

Note—

Section 79C of the Act requires other matters to be taken into consideration by a consent authority, including any draft environmental planning instrument that is placed on public exhibition during the precinct planning process for the purpose of including relevant land use and other development controls in Schedule 1.

Part 6 Development controls—vegetation

21 Land to which Part applies

- (1) This Part applies to the following land:
 - (a) land zoned under Part 3,
 - (b) flood prone and major creeks land,
 - (c) transitional land.
- (2) This Part does not apply to land reserved under the [National Parks and Wildlife Act 1974](#).

22 Vegetation to which Part applies

- (1) This Part applies to native vegetation within the meaning of the [Native Vegetation Act 2003](#).
- (2) This Part does not apply to any particular native vegetation that the council of the area concerned is satisfied:
 - (a) is dying or dead and is not required as the habitat of native fauna, or
 - (b) is a risk to human life or property.
- (3) This Part does not apply to any native vegetation:
 - (a) within a State forest, or land reserved from sale as a timber or forest reserve under the [Forestry Act 1916](#), or

(b) declared to be noxious weeds under the *Noxious Weeds Act 1993*.

23 Consent for clearing native vegetation

- (1) A person must not clear native vegetation on land to which this Part applies without:
- (a) approval under Part 3A of the Act, or
 - (b) development consent.

For the purposes of this clause, **clearing native vegetation** has the same meaning as it has in the *Native Vegetation Act 2003*.

Note—

A consent of the relevant consent authority required under this clause for the clearing of native vegetation is in addition to any development consent required or granted by the Minister for Natural Resources under the *Native Vegetation Act 2003* in respect of that clearing.

- (2) Development consent under this clause is not to be granted unless the consent authority is satisfied of the following in relation to the disturbance of bushland caused by the clearing of the vegetation:
- (a) that there is no reasonable alternative available to the disturbance of the bushland,
 - (b) that as little bushland as possible will be disturbed,
 - (c) that the disturbance of the bushland will not increase salinity,
 - (d) that bushland disturbed for the purposes of construction will be re-instated where possible on completion of construction,
 - (e) that the loss of remnant bushland caused by the disturbance will be compensated by revegetation on or near the land to avoid any net loss of remnant bushland,
 - (f) that no more than 0.5 hectare of bushland will be cleared unless the clearing is essential for a previously permitted use of the land.
- (3) The consent authority must, when determining a development application in respect of the clearing of native vegetation on land within a zone under Part 3, have regard to the objectives for development in that zone.
- (4) This clause does not apply to or in respect of action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying Act 2002*.

24 Relationship to tree preservation under other planning instruments

This Part does not affect any requirement of another environmental planning instrument

applying to the land concerned relating to the preservation of trees. However, a development consent granted under this Part that allows any clearing of native vegetation satisfies any requirement under that other instrument for approval of any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree resulting from any such clearing.

Part 7 Development controls—cultural heritage landscape area

25 Application of Part

This Part applies to development requiring consent that is carried out on the cultural heritage landscape area, being the land in the vicinity of the Rouse Hill House Estate that is shown hatched brown on the map marked “*Sydney Region Growth Centres Development Control Map—North West Growth Centre*”.

26 Development on land in cultural heritage landscape area—additional heads of consideration

Consent is not to be granted to the carrying out of development to which this Part applies unless the consent authority has taken the following into consideration:

- (a) whether or not the development will adversely impact on the cultural heritage values of the Rouse Hill House Estate and its setting, having regard, in particular, to the following matters:
 - (i) any proposed subdivision design and layout,
 - (ii) the siting, height, bulk and scale of any proposed buildings or works (including any buildings or works likely to result from any proposed subdivision),
 - (iii) the materials and colours to be used in any proposed buildings, fences or other structures,
 - (iv) the extent, location and form of any proposed landscaping and its ability to reduce the visual impact of the development,
 - (v) the impact of the development on any archaeological relics,
- (b) a site analysis of the cultural heritage landscape area that assesses development that is responsive to the topography of the area and to other development in the vicinity,
- (c) a visual analysis that assesses the impact of the development on views to and from the Rouse Hill House Estate,
- (d) measures to minimise any adverse impact of the development on the cultural heritage values of Rouse Hill House Estate and its setting.

Note—

Section 79C of the Act requires other matters to be taken into consideration by a consent authority, including any draft environmental planning instrument that is placed on public exhibition during the precinct planning process for the purpose of including relevant land use and other development controls in Schedule 1.

Schedule 1 Development control provisions applying to precincts following finalisation of precinct planning process

(Clause 7)

Note—

On the commencement of this Policy this Schedule was blank.

Schedule 2 Additional permitted uses

(Clause 13)

Note—

On the commencement of this Policy this Schedule was blank.

Schedule 3 Approved water recycling and water conservation systems

(Clause 18)

Note—

On the commencement of this Policy this Schedule was blank.