

# State Environmental Planning Policy (Major Projects) 2005

[2005-194]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Previously named**  
State Environmental Planning Policy (State Significant Development) 2005
- **See also**  
[Statute Law \(Miscellaneous Provisions\) Bill 2009](#)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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New South Wales

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# State Environmental Planning Policy (Major Projects) 2005



New South Wales

## 1 Name of Policy

This Policy is *State Environmental Planning Policy (Major Projects) 2005*.

## 2 Aims of Policy

The aims of this Policy are as follows:

- (a) to identify development to which the development assessment and approval process under Part 3A of the Act applies,
- (b) to identify any such development that is a critical infrastructure project for the purposes of Part 3A of the Act,
- (c) to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State so as to facilitate the orderly use, development or conservation of those State significant sites for the benefit of the State,
- (d) to facilitate service delivery outcomes for a range of public services and to provide for the development of major sites for a public purpose or redevelopment of major sites no longer appropriate or suitable for public purposes,
- (e) to rationalise and clarify the provisions making the Minister the approval authority for development and sites of State significance, and to keep those provisions under review so that the approval process is devolved to councils when State planning objectives have been achieved.

## 3 Definitions and key concepts

(1) In this Policy:

***environmentally sensitive area of State significance*** means:

- (a) coastal waters of the State, or
- (b) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or

*State Environmental Planning Policy No 26—Littoral Rainforests* applies, or

- (c) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*, or
- (d) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention, or
- (e) land identified in an environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance, or
- (f) land reserved as a State conservation area under the *National Parks and Wildlife Act 1974*, or
- (g) land, places, buildings or structures listed on the State Heritage Register, or
- (h) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes, or
- (i) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

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

(2) For the purposes of this Policy:

- (a) 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 and equipment (but excluding GST, as defined by *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth, and land costs), and
- (b) the **employment** of people by development means the average number of workers (calculated on a full-time equivalent basis) that will be employed to operate the development in any one year (other than construction workers employed to establish the development).

(3) Notes included in this Policy do not form part of this Policy.

#### **4 Land to which Policy applies**

This Policy applies to the State.

#### **5 Relationship to other environmental planning instruments**

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.

## **6 Identification of Part 3A projects**

- (1) Development that, in the opinion of the Minister, is development of a kind:
  - (a) that is described in Schedule 1 or 2, or
  - (b) that is described in Schedule 3 as a project to which Part 3A of the Act applies, or
  - (c) to the extent that it is not otherwise described in Schedules 1–3, that is described in Schedule 5,is declared to be a project to which Part 3A of the Act applies.
- (2) However, any such development does not become a project to which Part 3A of the Act applies by the operation of subclause (1) if:
  - (a) the carrying out of that development has been authorised by a consent that is in force under Part 4 of the Act before development of that kind is declared under subclause (1), or
  - (b) the development is an activity within the meaning of Part 5 of the Act and the following provisions apply in relation to the activity:
    - (i) the determining authority for the activity has, before 1 August 2005, complied with the requirements of Divisions 2 and 3 of Part 5 of the Act in relation to the activity,
    - (ii) the activity is not an activity in respect of which the Minister's approval was required under Division 4 of Part 5 of the Act (as in force before its repeal by Schedule 1 to the *Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Act 2005*),
    - (iii) the activity is physically commenced before 1 August 2006, or
  - (c) the Act or the regulations under the Act provide that Part 3A of the Act does not apply to the carrying out of that development (or to the determination of a pending development application under Part 4 of the Act with respect to that development).
- (3) If, after the commencement of Part 3A of the Act, any class of development or activity that was not a project to which that Part applies becomes such a project because of an amendment to this Policy (or because of a change in the application of a provision of this Policy), and:
  - (a) in the case of development to which Part 4 of the Act applies—a development application in respect of any particular development within that class of development was pending on the commencement of that amendment or change,

or

(b) in the case of an activity to which Part 5 of the Act applies—an application for approval (within the meaning of that Part) in relation to an activity that is within that class of development was made to a determining authority and had not been finally determined on the commencement of that amendment or change, that particular development or activity does not become such a project by the operation of subclause (1) unless the application is withdrawn or the Minister so directs.

**Notes—**

1. Under section 75B of the Act, development may be declared by a State Environmental Planning Policy or Ministerial Order to be a project to which Part 3A applies.
2. The Minister is the approving authority for such projects and they are generally excluded from Parts 4 and 5 of the Act.
3. Section 75R of the Act limits the application of environmental planning instruments in relation to approved projects, but any prohibition on development imposed by any such instrument continues to apply to any project other than a critical infrastructure project.
4. Schedule 6 to the Act provides that Part 3A of the Act does not apply to the determination of a development application for State significant development that is pending on the commencement of that Part and is not withdrawn by the applicant).

**6A Identification of projects as critical infrastructure projects**

Development that, in the opinion of the Minister, is described in Schedule 5, is also declared to be a critical infrastructure project.

**Note—**

Under section 75C of the Act, projects to which Part 3A apply may also be declared to be critical infrastructure projects to which additional provisions in Part 3A apply. When inserted into this Policy, Schedule 5 did not contain the description of any project.

**6B Continuation of and limitations on existing lawful uses**

- (1) The declaration of development by this Policy to be a project to which Part 3A of the Act applies does not operate so as to require an approval under that Part to be obtained for the continuance of a use of a building, work or land for a lawful purpose for which it was being used immediately before the declaration took effect.
- (2) Nothing in subclause (1) authorises:
  - (a) any alteration or extension to or rebuilding of a building or work, or
  - (b) any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into effect of the declaration concerned, or

- (c) without affecting paragraph (a) or (b), any enlargement or expansion or intensification of the use, or
  - (d) the continuance of the use in breach of any consent in force under the Act in relation to that use or any condition imposed or applicable to that consent or in breach of any condition referred to in section 80A (1) (b) of the Act, or
  - (e) the continuance of the use if it has been abandoned.
- (3) Without limiting the generality of subclause (2) (e), a use is presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.

## **7 State significant sites**

- (1) Schedule 3 describes State significant sites, including development on those sites that is a project to which Part 3A of the Act applies.
- (2) The provisions in Schedule 3 relating to the carrying out of development on a State significant site have effect.

## **8 Proposals for State significant site listing**

- (1A) The Minister may publish a notice in the Gazette advising of a proposal that Schedule 3 be amended to add a site that the Minister considers to be a State significant site.
- (1) For the purposes of considering a proposed amendment to Schedule 3, the Minister may initiate an investigation into the proposal by requiring the Director-General to undertake a study or to make arrangements for a study to be undertaken for the purpose of determining:
  - (a) whether any development on the site should be declared to be a project to which Part 3A of the Act applies, and
  - (b) the appropriate development controls for the site.
- (2) Any such study is to assess:
  - (a) the State or regional planning significance of the site, and
  - (b) the suitability of the site for any proposed land use taking into consideration environmental, social and economic factors, the principles of ecologically sustainable development and any State or regional planning strategy, and
  - (c) the implications of any proposed land use for local and regional land use, infrastructure, service delivery and natural resource planning, and
  - (d) any other matters required by the Director-General.



- (3) The Director-General is to make arrangements for any such study to be publicly exhibited with an invitation to the public to make written submissions.
- (4) The Minister may direct that an inquiry be held as part of the investigation into a potential State significant site.
- (5) The Director-General is to provide the Minister with a copy of any such study and any recommendations relating to it.
- (6) This clause does not preclude an amendment of Schedule 3 without compliance with this clause.

## **9 (Repealed)**

### **9A Development for which Minister consent authority under Part 4**

- (1) The Minister is the consent authority under Part 4 of the Act for any development requiring consent under that Part that, in the opinion of the Minister, is of a kind described in Schedule 6 and is not a project to which Part 3A of the Act applies.
- (2) (Repealed)
- (3) The provisions in Schedule 6 relating to the carrying out of development described in that Schedule have effect.

### **10 Exclusion of certain exempt or complying development**

- (1) If, but for this clause:
  - (a) particular development would be a project to which Part 3A of the Act applies because of a provision of this Policy, and
  - (b) another provision of this Policy or a provision of another environmental planning instrument (whether made before or after this Policy takes effect) provides that the particular development is exempt or complying development, and
  - (c) the particular development is not carried out as part of or in conjunction with other development that is a project to which Part 3A applies,the particular development is not such a project, despite clauses 6 and 6A.
- (2) If, but for this clause:
  - (a) particular development would be development for which the Minister is the consent authority because of clause 9A, and
  - (b) another provision of this Policy or a provision of another environmental planning instrument (whether made before or after this Policy takes effect) provides that the particular development is exempt or complying development, and

(c) the particular development is not carried out as part of or in conjunction with other development for which the Minister is the consent authority,

the Minister is not the consent authority for the particular development, despite clause 9A.

#### **10A Development that does not require consent under Part 4**

Development specified in Schedule 7 is development that does not require consent under Part 4 of the Act.

**Note—**

As a consequence of the removal of the requirement for development consent under Part 4 of the Act, development specified in Schedule 7 will be subject to the environmental assessment and approval requirements of Part 5 of the Act (if it is not a project to which Part 3A of the Act applies).

#### **10B Exempt and complying development**

(1) Development specified in Schedule 8 is exempt development.

(2) Development specified in Schedule 9 is complying development.

#### **11 Subdivision certificates for Part 3A projects**

Subject to section 75S of the Act, a subdivision certificate may be issued by an accredited certifier for a subdivision that is a project to which Part 3A of the Act applies in accordance with section 109D (1) (d) (iv) of the Act.

#### **12 Walsh Bay—designated consent authority**

(1) This Policy terminates the powers and functions of the Minister administering the *Walsh Bay Development (Special Provisions) Act 1999* as the consent authority under the *Environmental Planning and Assessment Act 1979* for development at Walsh Bay and appoints as the consent authority for that development:

(a) in the case of development that continues to be dealt with under the Act as State significant development—the Minister designated as the consent authority for that development by section 76A of the *Environmental Planning and Assessment Act 1979*, or

(b) in the case of any other development—the Council of the City of Sydney.

(2) This clause does not affect the operation of Part 3A of the Act in relation any development at Walsh Bay that is a project to which that Part applies.

**Note—**

The above provision is authorised by section 9 (3) of the *Walsh Bay Development (Special Provisions) Act 1999*.

## **12A Sydney Harbour Foreshore Sites—consent authority**

- (1) This clause applies to development on land in the areas identified on Map 9 to Schedule 2 (***Sydney Harbour Foreshore Sites***) that is not development to which Schedule 2 or 6 applies.
- (2) Despite clauses 22 (1) and 28 (1) of Schedule 6 to the Act, the consent authority for development to which this clause applies is the Council of the City of Sydney.

### **Note 1—**

The Sydney Harbour Foreshore Sites include land that was part of the Darling Harbour Development Area and land that was part of the Sydney Cove Development Area.

### **Note 2—**

The Council of the City of Sydney is the consent authority for development on land in the Sydney Harbour Foreshore Sites that is in Walsh Bay (under [Sydney Regional Environmental Plan No 16—Walsh Bay](#)) and the Bank Street Precinct, Circular Quay and the Sydney Casino (under [Sydney Local Environmental Plan 2005](#)).

## **13 (Repealed)**

## **14 Transitional provisions**

- (1) If, immediately before the commencement of this Policy on 25 May 2005:
  - (a) a development application in respect of any development had been made but not finally determined, and
  - (b) the development was not State significant development,this Policy (as in force on that commencement) does not apply to or in respect of the determination of that development application.
- (2) If, immediately before the commencement of this Policy on 25 May 2005:
  - (a) a development application in respect of any development had been made but not finally determined, and
  - (b) the development was State significant development,this Policy (as in force on that commencement) applies to and in respect of the determination of that development application.
- (3) Subclauses (1) and (2) are subject to the provisions of Part 3A of the Act and the regulations made under the Act for the purposes of that Part.
- (4) Subject to subclause (3), this Policy does not operate to make the carrying out of development for the purposes of a mine, as described in item 7 of Schedule 1 to the [Environmental Planning and Assessment Model Provisions 1980](#), a project to which Part 3A of the Act applies if the carrying out of the development would be prohibited

or require consent but for the authority conferred by:

- (a) the adoption of clause 35 and that item of those Model Provisions under an environmental planning instrument applying to the land concerned, or
- (b) a provision of an environmental planning instrument, applying to the land concerned, that has the same effect in relation to mines as clause 35 and that item of those Model Provisions.

(5) Subclause (4) ceases to have effect:

- (a) in relation to development carried out underground—on 1 August 2010, or
- (b) in any other case—on 1 August 2007.

(6) For the avoidance of any doubt, nothing in subclause (4) prevents an application to carry out development for the purposes of a mine from being made during the transitional period (as referred to in subclause (5)) for the type of development concerned.

## **15 Review of Policy**

(1) The Minister must ensure that the provisions of this Policy are reviewed:

- (a) as soon as practicable after the first anniversary of the commencement of Part 3A of the Act, and
- (b) at least every 5 years thereafter,

to ensure that the provisions continue to be appropriate for identifying Part 3A projects consistently with sections 75B and 75C of the Act.

(2) Any such review is to consider whether identified projects meet one or more of the following criteria:

- (a) the development is of regional or State economic importance in terms of a particular industry or infrastructure sector,
- (b) the development is of strategic significance in achieving State or regional planning, service delivery or economic development objectives,
- (c) the development is likely to set a precedent or is an emerging industry of strategic importance to the State,
- (d) the development is of region-wide or State-wide community interest,
- (e) the development is in need of an alternative consent authority arrangement:
  - (i) for added transparency because of potential conflicting interests, or

- (ii) because more than one local council is likely to be affected or is the consent authority.

## 16 Savings and transitional provisions

- (1) Despite clause 6 (3), the amendments made to this Policy by the following Policies extend to project applications under Part 3A of the Act, and development applications under Part 4 of the Act, made but not finally determined before the commencement of those amendments:

*State Environmental Planning Policy (Major Projects) 2005 (Amendment No 7)*

*State Environmental Planning Policy (Major Projects) 2005 (Amendment No 10)*

- (2) The amendments made to this Policy by the following Policies do not extend to project applications under Part 3A of the Act, and development applications under Part 4 of the Act, made but not finally determined before the commencement of those amendments:

*State Environmental Planning Policy (Major Projects) 2005 (Amendment No 4)*

*State Environmental Planning Policy (Major Projects) 2005 (Amendment No 16)*

*State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)*

*State Environmental Planning Policy (Major Projects) 2005 (Amendment No 24)*

*State Environmental Planning Policy (Major Projects) Amendment (Sydney Harbour Foreshore) 2009*

### Note—

See also clause 6 (3).

- (2A) Anything done under Part 3A of the Act in reliance on a declaration by this Policy of development described in a Schedule to this Policy to be a project to which Part 3A applies is not affected by the repeal of that description of that development in that Schedule, but only if that project continues to be a Part 3A project by the inclusion of the description of that development in another Schedule to this Policy.

- (3) In this clause:

**project application** means:

- (a) an application for approval of a concept plan, or
- (b) an application for approval to carry out a project (or a part or aspect of a project),  
or
- (c) an application for approval of a concept plan and to carry out a project (or a part

or aspect of a project).

## **Schedule 1 Part 3A projects—classes of development**

(Clause 6)

### **Group 1 Agriculture, timber, food and related industries**

#### **1 Intensive livestock industries**

Development that employs 20 or more people for the purpose of feedlots, piggeries, poultry egg or meat production or dairies.

#### **2 Aquaculture**

- (1) Development that employs 20 or more people for the purpose of aquaculture.
- (2) Development for the purpose of aquaculture located in environmentally sensitive areas of State significance.
- (3) This clause does not apply to development for the purpose of oyster aquaculture.

**Note—**

Subclause (3) is affected by clause 19 of [State Environmental Planning Policy No 62—Sustainable Aquaculture](#), which relates to applications under the Act with respect to oyster aquaculture that were pending immediately before the commencement of subclause (3).

#### **3 Agricultural produce industries and food and beverage processing**

Development that employs 100 or more people or has a capital investment value of more than \$30 million for any of the following purposes:

- (a) abattoirs or meat packing, boning or products plants; milk or butter factories; fish packing, processing, canning or marketing facilities; animal or pet feed; gelatine plants; tanneries; wool scouring or topping; rendering plants, or
- (b) cotton gins; cotton seed mills; sugar mills; sugar refineries; grain mills or silo complexes; edible or essential oils processing; breweries; distilleries; ethanol plants; soft drink manufacture; fruit juice works; canning or bottling works; bakeries; small goods manufacture, cereal processing or margarine manufacturing; wineries, or
- (c) organic fertiliser plants or composting facilities or works, or
- (d) any purpose that the Minister considers constitutes an agricultural produce industry or food and beverage processing.

#### **4 Timber milling, timber processing, paper or pulp processing**

Development that employs 100 or more people or has a capital investment value of more than \$30 million for the purpose of:

- (a) milling plants, sawmills, wood-chipping or particle board manufacture, or
- (b) manufacture of paper, pulp, cardboard or newsprint, or
- (c) paper recycling, or
- (d) wood preservation, or
- (e) charcoal plants,

but not including development for the purpose of plantations (unless it is ancillary to other development).

## **Group 2 Mining, petroleum production, extractive industries and related industries**

### **5 Mining**

- (1) Development for the purpose of mining that:
  - (a) is coal or mineral sands mining, or
  - (b) is in an environmentally sensitive area of State significance, or
  - (c) has a capital investment value of more than \$30 million or employs 100 or more people.
- (2) Extracting a bulk sample as part of resource appraisal or a trial mine comprising the extraction of more than 20,000 tonnes of coal or of any mineral ore.
- (3) Development for the purpose of mining related works (including primary processing plants or facilities for storage, loading or transporting any mineral, ore or waste material) that:
  - (a) is ancillary to or an extension of another Part 3A project, or
  - (b) has a capital investment value of more than \$30 million or employs 100 or more people.

### **6 Petroleum (oil, gas and coal seam methane)**

- (1) Development for the purpose of drilling and operation of petroleum wells (including associated pipelines) that:
  - (a) has a capital investment value of more than \$30 million or employs 100 or more people, or
  - (b) is in an environmentally sensitive area of State significance, or
  - (c) is in the local government areas of Camden, Wollondilly, Campbelltown City,

Wollongong City, Wingecarribee, Gosford City, Wyong, Lake Macquarie City, Newcastle City, Maitland City, Cessnock City, Singleton, Hawkesbury, Port Stephens, Upper Hunter or Muswellbrook, but only if the principal resource sought is coal seam methane.

- (2) Development for the purpose of petroleum related works (including processing plants) that:
- (a) is ancillary to or an extension of another Part 3A project, or
  - (b) has a capital investment value of more than \$30 million or employs 100 or more people.

## **7 Extractive Industries**

- (1) Development for the purpose of extractive industry that:
- (a) extracts more than 200,000 tonnes of extractive materials per year, or
  - (b) extracts from a total resource (the subject of the development application (or other relevant application under the Act)) of more than 5 million tonnes, or
  - (c) extracts from an environmentally sensitive area of State significance.
- (1A) Subclause (1) (c) does not apply to extraction:
- (a) by a public authority in maintenance dredging of a tidal waterway, or
  - (b) in maintenance dredging of oyster lease areas, or adjacent areas, in Wallis Lake.
- (2) Development for the purpose of extractive industry related works (including processing plants, water management systems, or facilities for storage, loading or transporting any construction material or waste material) that:
- (a) is ancillary to or an extension of another Part 3A project, or
  - (b) has a capital investment value of more than \$30 million.

## **8 Geosequestration**

Development for the geosequestration of carbon dioxide.

## **9 Metal, mineral or extractive material processing**

Development that has a capital investment value of more than \$30 million or employs 100 or more people for any of the following purposes:

- (a) metal or mineral refining or smelting; metal founding, rolling, drawing, extruding, coating, fabricating or manufacturing works; metal or mineral recycling or recovery,
- (b) brickworks, ceramic works, silicon or glassworks or tile manufacture,



- (c) cement works, concrete or bitumen pre-mix industries or related products,
- (d) building or construction materials recycling or recovery.

### **Group 3 Chemical, manufacturing and related industries**

#### **10 Chemical, manufacturing and related industries**

- (1) Development that employs 100 or more people or with a capital investment value of more than \$20 million for the purpose of the manufacture or reprocessing of the following (excluding labelling or packaging):
  - (a) soap, detergent or cleaning agents,
  - (b) paints, ink, dyes, adhesives, solvents,
  - (c) pesticides or inorganic fertiliser,
  - (d) pharmaceuticals or veterinary products,
  - (e) ammunition or explosives,
  - (f) oils, fuels, gas, petrochemicals or precursors,
  - (g) polymers, plastics, rubber or tyres,
  - (h) batteries or carbon black.
- (2) Development with a capital investment value of more than \$20 million for the purpose of:
  - (a) bulk liquid storage facilities, or
  - (b) gas storage facilities, or
  - (c) chemical storage facilities.
- (3) Development for the purpose of the manufacture, storage or use of dangerous goods in such quantities that constitute the development as a major hazard facility under the *Control of Major Hazard Facilities National Standard [NOHSC: 1014 (2002)]*.

### **Group 4 Other manufacturing industries, distribution and storage facilities**

#### **11 Other manufacturing industries**

Development that employs 100 or more people or with a capital investment value of more than \$30 million for the purpose of:

- (a) laboratory, research or development facilities, or

- (b) medical products, or
- (c) printing or publishing, or
- (d) textile, clothing, footwear or leather manufacturing, or
- (e) furniture manufacturing, or
- (f) machinery or equipment manufacturing, or
- (g) the vehicle, defence or aerospace industry, or
- (h) vessel or boat building.

## **12 Distribution and storage facilities**

Development for the purpose of container storage facilities, or storage or distribution centres, with a capital investment value of more than \$30 million.

## **Group 5 Residential, commercial or retail projects**

### **13 Residential, commercial or retail projects**

- (1) Development for the purpose of residential, commercial or retail projects with a capital investment value of more than \$50 million that the Minister determines are important in achieving State or regional planning objectives.
- (2) This clause does not apply to major development within the meaning of section 31 of the *City of Sydney Act 1988*.

## **Group 6 Tourism and recreational facilities**

### **14 Marina facilities**

- (1) Development for the purpose of marinas or other related land or water shoreline facilities that moor, berth or store vessels (excluding dinghies and other small craft) at fixed or floating berths, at freestanding moorings, alongside jetties or pontoons, within dry storage stacks or on cradles in hardstand areas and that:
  - (a) moor, berth or store more than 30 vessels in Sydney Harbour, Middle Harbour, North Harbour, Botany Bay, Port Hacking, Broken Bay or associated tidal waters, or
  - (b) moor, berth or store more than 80 vessels in other waters, or
  - (c) are located in environmentally sensitive areas of State significance,but excluding any development that, in the opinion of the Minister, is only of local environmental planning significance.
- (2) A reference in this clause to the number of vessels moored, berthed or stored includes

a reference (in the case of an existing facility) to the additional number of vessels moored, berthed or stored at the facility.

### **15 Major sporting facilities**

- (1) Development for any of the following purposes on land to which *State Environmental Planning Policy No 29—Western Sydney Recreation Area* applies:
  - (a) recreational facilities or other park improvements, being development that has a capital investment value of more than \$5 million,
  - (b) a new sporting complex, being development that has a capital investment value of more than \$10 million.
- (2) Development for the purpose of major sporting facilities that:
  - (a) has a capital investment value of more than \$30 million, or
  - (b) is listed in the *Sporting Venues Management Act 2002* and has a capital investment value of more than \$10 million.
- (3) Development for the purpose of a regional shooting complex where two or more shooting clubs or ranges within a defined region are consolidated into a single site.

### **16 Film, television, media or performing arts facilities**

- (1) Development that employs 100 or more people or has a capital investment value of more than \$30 million for the purpose of film production, the television industry or the digital or recorded media.
- (2) Development for the purpose of new performing arts facilities with a capital investment value of more than \$30 million (excluding any development that the Minister determines is only of local environmental planning significance).

### **17 Tourist, convention and entertainment facilities**

Development for the purpose of tourist related facilities, major convention and exhibition facilities or multi-use entertainment facilities that:

- (a) has a capital investment value of more than \$100 million, or
- (b) employs 100 or more people, or
- (c) has a capital investment value of more than \$5 million and is located in an environmentally sensitive area of State significance.

## **Group 7 Health and public service facilities**

### **18 Hospitals**

- (1) Development that has a capital investment value of more than \$15 million for the purpose of providing professional health care services to people admitted as in-patients (whether or not out-patients are also cared for or treated there), including ancillary facilities for:
  - (a) day surgery, day procedures or health consulting rooms, or
  - (b) accommodation for nurses or other health care workers, or
  - (c) accommodation for persons receiving health care or for their visitors, or
  - (d) shops or refreshment rooms, or
  - (e) transport of patients, including helipads and ambulance facilities, or
  - (f) educational purposes, or
  - (g) research purposes, whether or not they are used only by hospital staff or health care workers and whether or not any such use is a commercial use, or
  - (h) any other health-related use.
- (2) For the purposes of this clause, professional health care services include preventative or convalescent care, diagnosis, medical or surgical treatment, psychiatric care or care for people with disabilities, care or counselling services provided by health care professionals.

### **19 Medical research and development facility**

Development for the purpose of health, medical or related research (which may also be associated with the facilities or research activities of a NSW Government Area Health Service, a University or an independent medical research institute) and that:

- (a) has a capital investment value of more than \$15 million, or
- (b) employs 100 or more people.

### **20 Educational facilities**

Development for the purpose of teaching or research (including universities, TAFE or schools) that has a capital investment value of more than \$30 million.

### **21 Correctional facilities**

Development for the purpose of correctional facilities that:

- (a) has a capital investment value of more than \$30 million, or
- (b) employs 100 or more people, or
- (c) provides accommodation for an additional 100 or more persons.

## **Group 8 Transport, communications, energy and water infrastructure**

### **22 Port and wharf facilities**

Development for the purpose of shipping berths or terminals or wharf-side facilities (and related infrastructure) that has a capital investment value of more than \$30 million.

### **23 Rail and related transport facilities**

- (1) Development that has a capital investment value of more than \$30 million for the purpose of:
  - (a) heavy railway lines associated with mining, extractive industries or other industry, or
  - (b) railway freight facilities or inter-modal terminals.
- (2) Development within a railway corridor or associated with railway infrastructure that has a capital investment value of more than \$30 million and that the Minister determines is of strategic State or regional planning significance, and is for the purpose of:
  - (a) commercial, residential or retail development, or
  - (b) container packing, storage or examination facility, or
  - (c) bus interchange development.

### **24 Generation of electricity or heat or co-generation**

Development for the purpose of a facility for the generation of electricity or heat or their co-generation (using any energy source, including gas, coal, bio-fuel, distillate and waste and hydro, wave, solar or wind power), being development that:

- (a) has a capital investment value of more than \$30 million, or
- (b) has a capital investment value of more than \$5 million and is located in an environmentally sensitive area of State significance.

### **25 Water supply works**

- (1) Development for the purpose of water treatment works that has a capital investment value of more than \$30 million for drinking water supply.

- (2) Development for the purpose of desalination plants that has a capital investment value of more than \$10 million for drinking water supply.

## **26 Sewage and related waste water treatment plants**

- (1) Development for the purpose of sewage and related waste water treatment plants for the treatment, storage or disposal of sewage effluent or other waste water, or for the reticulation of treated water, that:
  - (a) handles more than 10,000 EP (equivalent population), or
  - (b) has a capital investment value of more than \$30 million, or
  - (c) is located in an environmentally sensitive area of State significance.
- (2) This clause does not apply to development if the proponent is a public authority.

### **26A Pipelines**

Development for the purposes of a pipeline in respect of which:

- (a) a licence is required under the [Pipelines Act 1967](#), or
- (b) an application for a licence is made under that Act on or after the commencement of this clause, or
- (c) a licence was granted under that Act before the commencement of this clause.

#### **Note—**

The [Pipelines Act 1967](#) enables a person to apply for and be granted a licence under that Act although a licence is not required by the Act for the pipeline concerned. Also, see Part 3 of Schedule 1 to the [Pipelines Act 1967](#), which affects the operation of the [Environmental Planning and Assessment Act 1979](#) with respect to pipelines.

### **26B Submarine telecommunications cables**

Development for the purpose of submarine telecommunication cables (and any attached devices) laid on or under the seabed beneath the coastal waters of the State and below the mean high water mark, being cables used for communications between Australia and other countries.

## **Group 9 Resource and waste related industries**

### **27 Resource recovery or waste facilities**

- (1) Development for the purpose of regional putrescible landfills or an extension to a regional putrescible landfill that:
  - (a) has a capacity to receive more than 75,000 tonnes per year of putrescible waste,  
or

- (b) has a capacity to receive more than 650,000 tonnes of putrescible waste over the life of the site, or
  - (c) is located in an environmentally sensitive area of State significance.
- (2) Development for the purpose of waste transfer stations in metropolitan areas of the Sydney region that handle more than 75,000 tonnes per year of waste.
  - (3) Development for the purpose of resource recovery or recycling facilities that handle more than 75,000 tonnes per year of waste or have a capital investment value of more than \$30 million.
  - (4) Development for the purpose of waste incineration that handles more than 1,000 tonnes per year of waste.
  - (5) Development for the purpose of hazardous waste facilities that transfer, store or dispose of solid or liquid waste classified in the *Australian Dangerous Goods Code* or medical, cytotoxic or quarantine waste that handles more than 1,000 tonnes per year of waste.
  - (6) Development for the purpose of any other liquid waste depot that treats, stores or disposes of industrial liquid waste and:
    - (a) handles more than 10,000 tonnes per year of liquid food or grease trap waste, or
    - (b) handles more than 1,000 tonnes per year of other aqueous or non-aqueous liquid industrial waste.

## 28 Remediation of contaminated land

- (1) Development for the purpose of remediation of land that is category 1 remediation work on a remediation site.
- (2) In this clause, **category 1 remediation work**, **remediation** and **remediation site** have the same meanings as in [State Environmental Planning Policy No 55—Remediation of Land](#).

## Schedule 2 Part 3A projects—specified sites

(Clause 6)

### 1 Coastal areas

- (1) Development within the coastal zone for any of the following purposes:
  - (a) extractive industries, other than:
    - (i) maintenance dredging by a public authority in a tidal waterway, and
    - (ii) maintenance dredging of oyster lease areas, or adjacent areas, in Wallis Lake,

- (b) landfill facilities,
- (c) mining that is designated development and that is wholly or partly in a sensitive coastal location,
- (d) marinas that are designated development and that are wholly or partly in a sensitive coastal location,
- (e) the following types of industries (other than mining or extractive industries) but only if they are:
  - (i) designated development, and
  - (ii) in the case of the metropolitan coastal zone—wholly or partly in a sensitive coastal location:

agricultural produce industries, bitumen pre-mix industries, breweries or distilleries, cement works, ceramic or glass industries, chemical industries or works, chemical storage facilities, composting facilities or works, contaminated soil treatment works, crushing, grinding or separating works, drum or container reconditioning works, electricity generating stations, livestock intensive industries, livestock processing industries, mineral processing or metallurgical works, paper, pulp or pulp products industries, petroleum works, wood or timber milling or processing works, or wood preservation works,
- (f) recreational or tourist facilities (other than internal refits of, or minor alterations or minor additions to, existing facilities or a change of use of a building by which the building becomes a recreational or tourist facility):
  - (i) in the case of facilities wholly or partly in a sensitive coastal location outside the metropolitan coastal zone—that provide accommodation (or additional accommodation) for any number of persons, or
  - (ii) in the case of facilities wholly or partly in a sensitive coastal location in the metropolitan coastal zone—that provide accommodation (or additional accommodation) for 100 persons or more, or
  - (iii) in the case of facilities outside a sensitive coastal location that are not connected to an approved sewerage treatment work or system—that provide accommodation (or additional accommodation) for 25 persons or more,
- (g) buildings or structures (other than minor alterations or minor additions to existing buildings or structures) that are:
  - (i) greater than 13 metres in height, in the case of buildings or structures wholly or partly within a sensitive coastal location, or
  - (ii) greater than 13 metres in height, in the case of buildings in other locations



outside the metropolitan coastal zone, excluding any building that complies with all development standards relating to the height of such a building set by a local environmental plan that applies to the land on which the building is located,

- (h) subdivision of land that is wholly or partly in a sensitive coastal location and that will lead to development that is not connected to an approved sewage treatment work or system:
  - (i) into more than 2 lots, or
  - (ii) into 2 lots, if the land to be subdivided and adjoining or neighbouring land in the same ownership as that land could be subdivided into more than 2 lots,
- (i) subdivision of land that is outside a sensitive coastal location and that will lead to development that is not connected to an approved sewage treatment work or system:
  - (i) into more than 5 lots, or
  - (ii) into 5 or fewer lots, if the land to be subdivided and adjoining or neighbouring land in the same ownership as that land could be subdivided into more than 5 lots,
- (j) subdivision for residential purposes of land that is not in the metropolitan coastal zone (unless it is wholly or partly in a sensitive coastal location):
  - (i) into more than 25 lots, or
  - (ii) into 25 or fewer lots, if the land proposed to be subdivided and adjoining or neighbouring land in the same ownership as that land could be subdivided into more than 25 lots,
- (k) subdivision for rural-residential purposes of land that is not in the metropolitan coastal zone (unless it is wholly or partly in a sensitive coastal location):
  - (i) into more than 5 lots, or
  - (ii) into 5 or fewer lots, if the land proposed to be subdivided and adjoining or neighbouring land in the same ownership as that land could be subdivided into more than 5 lots.

(1A) Subclause (1) (f)–(k) does not apply to development that the Minister determines is of only local environmental planning significance.

(2) (Repealed)

(3) For the purposes of this clause, development is not partly in a sensitive coastal location merely because part of the allotment on which it is carried out is in such a

location if none of the development is actually carried out in such a location.

(4) In this clause:

**building** does not include an aerial, chimney stack, mast, pole, receiving tower, silo, transmission tower, utility installation or ventilator.

**coastal lake** means a lake referred to in Schedule 1 to *State Environmental Planning Policy No 71—Coastal Protection*.

**coastal zone** means the coastal zone within the meaning of the *Coastal Protection Act 1979*.

**extractive industry** means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include:

(a) turf farming, or

(b) tunnelling for the purpose of an approved infrastructure development, or

(c) cut and fill operations, or the digging of foundations, ancillary to approved development, or

(d) the creation of a farm dam if the material extracted in the creation of the dam is used on site and not removed from the site.

**height** of a building or structure means the greatest height measured from any point on the building or structure to the natural ground level (being the ground level of the site as if the land comprising the site were undeveloped) immediately below that point.

**landfill facility** means a facility that is principally used for the disposal of waste by landfilling, whether or not it includes the recovery, processing or recycling of resources or the generation of energy from the capture and utilisation of methane, and includes regional putrescible landfill (being a landfill site that is used for the purposes of disposing of putrescible waste, or waste including putrescible waste, brought to the site from more than one local government area).

**metropolitan coastal zone** means that part of the coastal zone between the northern boundary of the local government area of Newcastle City and the southern boundary of Shellharbour City.

**recreational or tourist facilities** means facilities that provide accommodation, including hotels, motels, backpackers' accommodation, hostels, tourist resorts, holiday cabins, holiday units, serviced apartments, eco-tourism resorts, caravan parks, camping grounds, health farms, religious retreat houses, rest homes or youth camps,

but does not include bed and breakfast establishments or farm stays.

**sensitive coastal location** means any of the following which occur within the coastal zone:

- (a) land within 100m above mean high water mark of the sea, a bay or an estuary,
- (b) a coastal lake,
- (c) a declared Ramsar wetland within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth,
- (d) a declared World Heritage property within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth,
- (e) land declared as an aquatic reserve under the *Fisheries Management Act 1994*,
- (f) land declared as a marine park under the *Marine Parks Act 1997*,
- (g) land within 100m of any of the following:
  - (i) the water's edge of a coastal lake,
  - (ii) land to which paragraph (c), (d), (e) or (f) applies,
  - (iii) land reserved under the *National Parks and Wildlife Act 1974*,
  - (iv) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* applies,
- (h) residential land (within the meaning of *State Environmental Planning Policy No 26—Littoral Rainforests*) that is within a distance of 100m from the outer edge of the heavy black line on the series of maps held in the Department and marked "State Environmental Planning Policy No 26—Littoral Rainforests (Amendment No 2)".

**subdivision** of land does not include a boundary adjustment, or a strata subdivision, or a community title subdivision associated with an approved development.

## 2 Chatswood Railway Interchange

Development within the area identified on Map 1 to this Schedule with a capital investment value of more than \$30 million.

## 3 (Repealed)

## 4 Kurnell

Industrial development within the area identified on Map 2 to this Schedule that is:

- (a) a facility that manufactures, stores or uses significant quantities of dangerous goods

and meets the criteria in *State Environmental Planning Policy No 33—Hazardous and Offensive Development* of being potentially hazardous, or

- (b) a waste facility that meets the criteria in *State Environmental Planning Policy No 33—Hazardous and Offensive Development* of being potentially hazardous.

## **5 Newcastle—Honeysuckle**

Development within the area identified on Map 3 to this Schedule that:

- (a) is a principal subdivision establishing major lots or public domain areas, or
- (b) is the remediation of contaminated land, or
- (c) is the creation of new roadways, or
- (d) is the creation of new foreshore public domain for the purpose of providing public access to the foreshore in an area under redevelopment, including seawalls, jetties, wharves, pontoons, boardwalks, landscaping, stormwater management or public domain elements (such as furniture, lighting or play equipment), but excluding maintenance, additions or alterations to a developed area, or
- (e) has a capital investment value of more than \$5 million.

## **6 Penrith Lakes**

Development within the area identified on Map 4 to this Schedule for the purpose of extraction, rehabilitation or lake formation (including associated infrastructure located in or outside that area).

## **7 Port and Related Employment Lands**

- (1) **Botany** Development within the area identified on Map 5 to this Schedule for the purpose of:
  - (a) a shipping berth, shipping terminal or associated building, structure or work, being development with a capital investment value of more than \$5 million, or
  - (b) a facility that manufactures, stores or uses significant quantities of dangerous goods and meets the criteria in *State Environmental Planning Policy No 33—Hazardous and Offensive Development* of being potentially hazardous, or
  - (c) a waste facility that meets the criteria in *State Environmental Planning Policy No 33—Hazardous and Offensive Development* of being potentially hazardous.
- (2) **Sydney Harbour** Development within the area identified as Glebe Island, White Bay, Rozelle Bay and Blackwattle Bay on Maps 6A and 6B to this Schedule, being development with a capital investment value of more than \$5 million.

**8 (Repealed)**

**9 Sydney—Fox Studios, Moore Park Showground and Sydney Cricket Grounds**

- (1) Development within the area identified on Map 8 to this Schedule that:
  - (a) is the subdivision of land (not including strata subdivision or boundary adjustments), or
  - (b) has a capital investment value of more than \$5 million.
- (2) This clause does not apply to development for the purpose of a non-sporting event (such as a concert) conducted on land described in Part 1 of Schedule 2 to the *Sydney Cricket and Sports Ground Act 1978*.

**10 Sydney Harbour Foreshore Sites**

- (1) Development (with a capital investment value of more than \$5 million) in the areas identified on Map 9 to this Schedule.
- (2) Development within the area identified on the following maps to this Schedule:
  - (a) Caltex Site, Ballast Point—Map 11,
  - (b) Rozelle Marshalling Yard—Map 6A,
  - (c) White Bay Power Station and Hotel Site—Map 6A,excluding:
  - (d) business identification signs, and
  - (e) any use of existing premises or approved premises, or any change of use of those premises, and
  - (f) fitouts and internal alterations of existing premises or approved premises, and
  - (g) strata subdivisions of existing premises.
- (3) Development that:
  - (a) is subdivision of land (excluding strata subdivision and boundary adjustments), or
  - (b) is remediation of contaminated land, or
  - (c) is the creation of new foreshore public domain for the purpose of providing public access to the foreshore in an area under redevelopment, including seawalls, boardwalks, landscaping, stormwater management or public domain elements (such as furniture, lighting or play equipment) but excluding maintenance, additions or alterations to a developed area, or

(d) has a capital investment value of more than \$5 million,  
within the area identified on the following maps to this Schedule:

- (e) ADI Site, Ryde—Map 12,
- (f) HMAS Platypus—Map 13,
- (g) Naval Stores Site, Ermington—Map 14,
- (h) Woolwich Defence Land—Map 15.

**11 Taronga Zoo**

Development at Taronga Zoo that has a capital investment value of more than \$5 million.

**12 Australian Museum**

Development at the Australian Museum that has a capital investment value of more than \$5 million.

**13 (Repealed)**

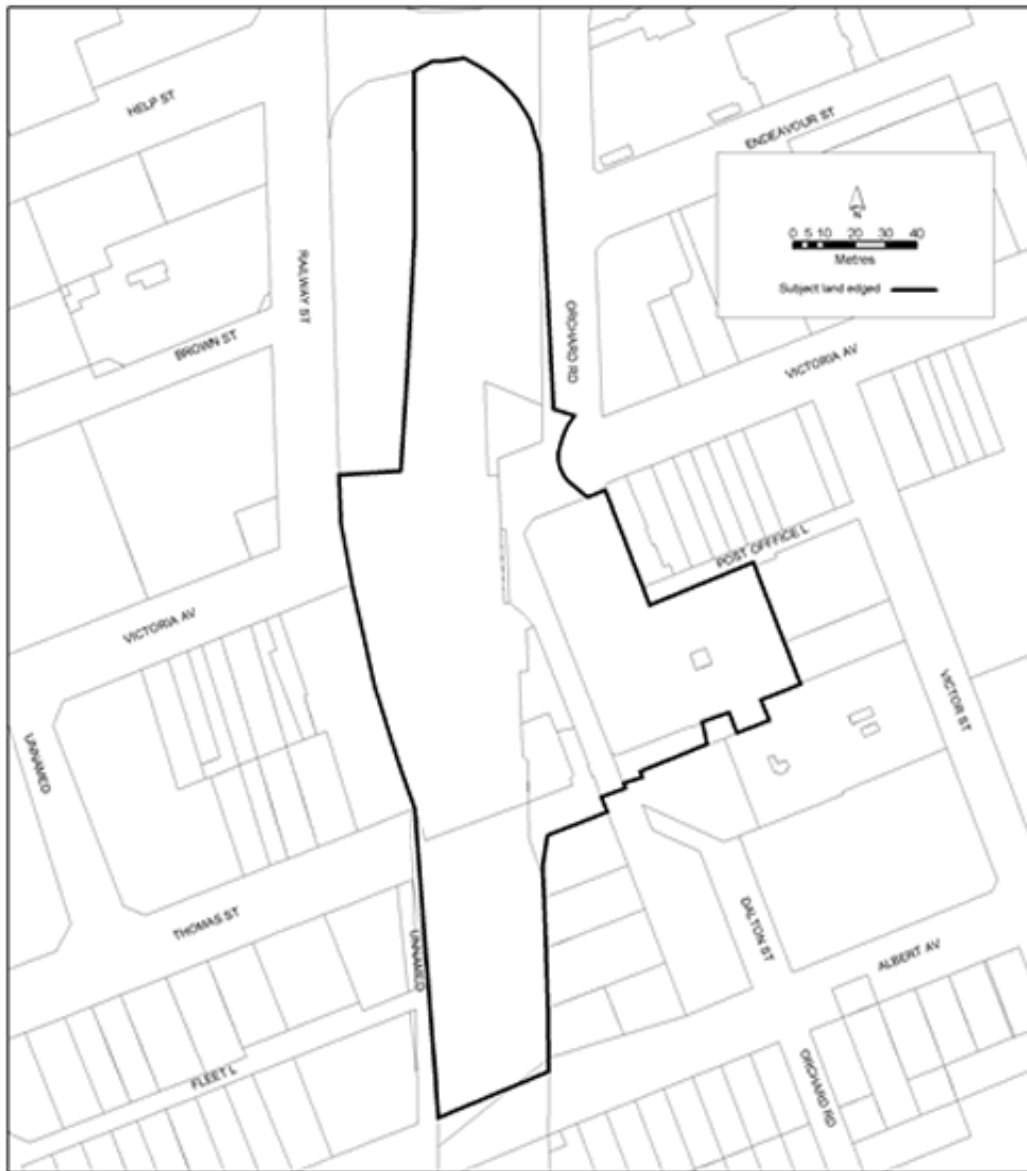
**14 Sydney Olympic Park**

Development (with a capital investment value of more than \$5 million) on land described in Schedule 1 to the *Sydney Olympic Park Authority Act 2001*.

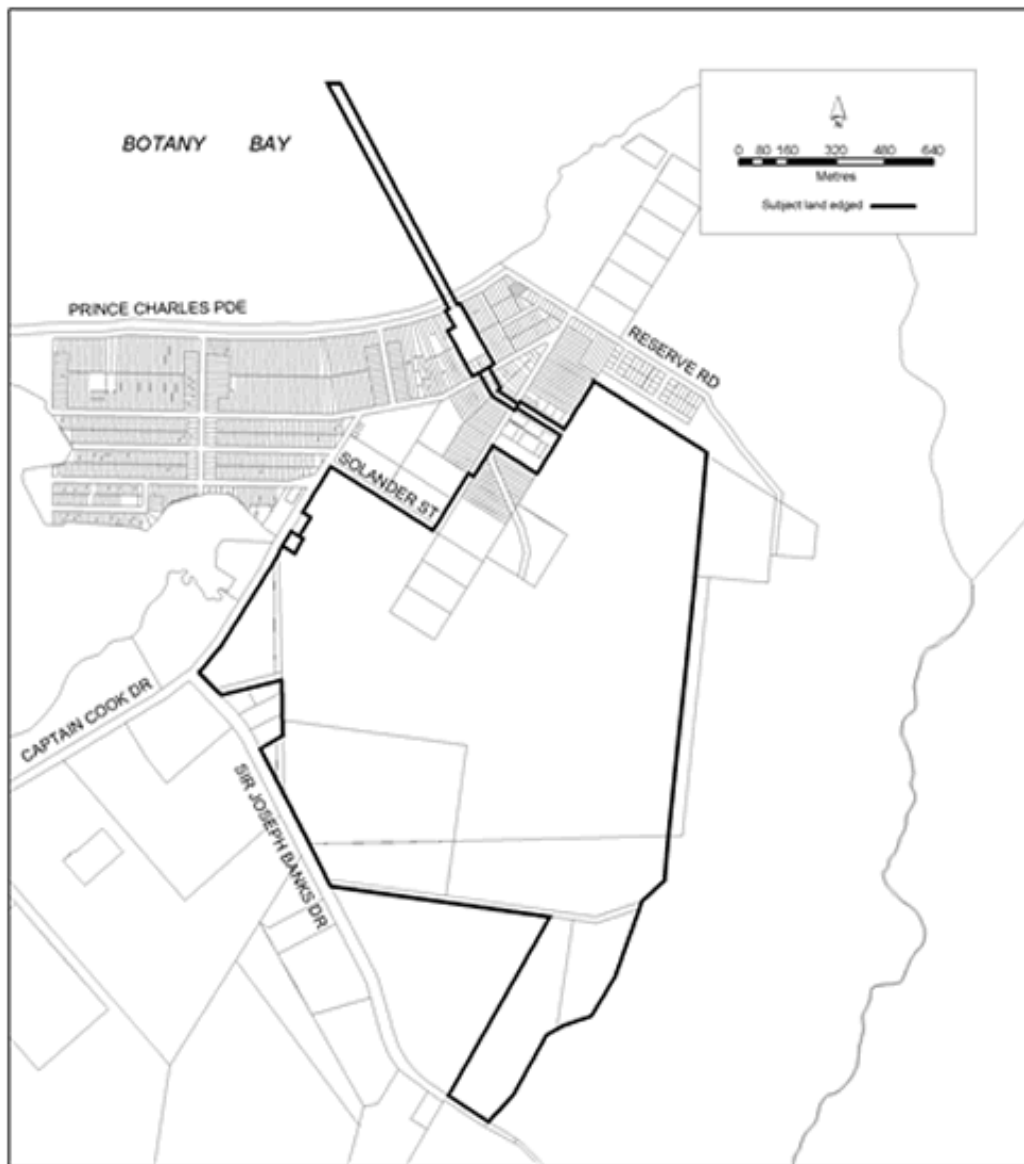
**15 Housing in Ku-ring-gai**

Development for the purpose of multi unit housing (including related subdivision and demolition including demolition of a heritage item) on sites in the area of Ku-ring-gai listed in Schedule 4 to *State Environmental Planning Policy No 53—Metropolitan Residential Development*.

**Map 1—Schedule 2—Chatswood Railway Interchange**

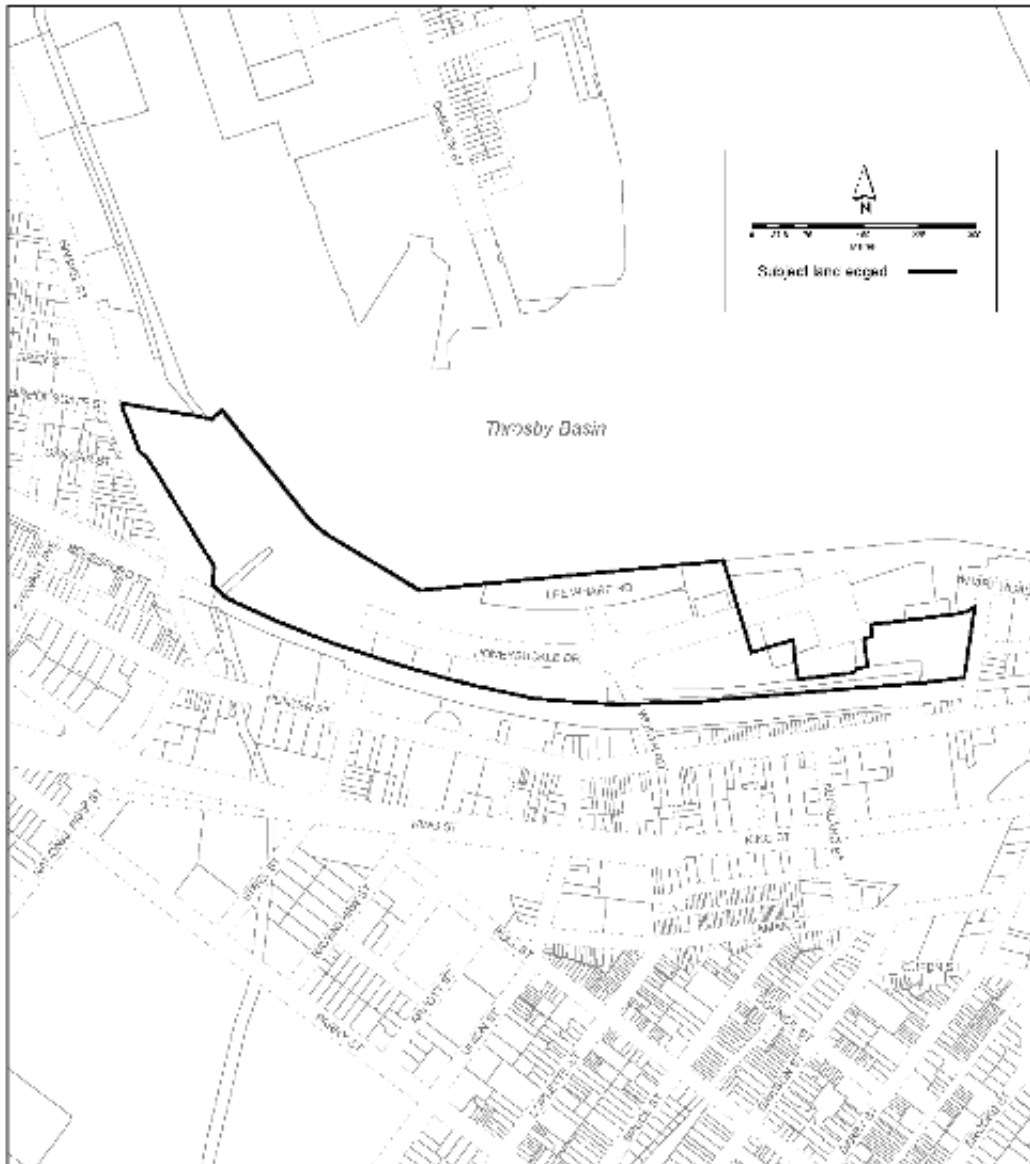


**Map 2—Schedule 2—Kurnell**

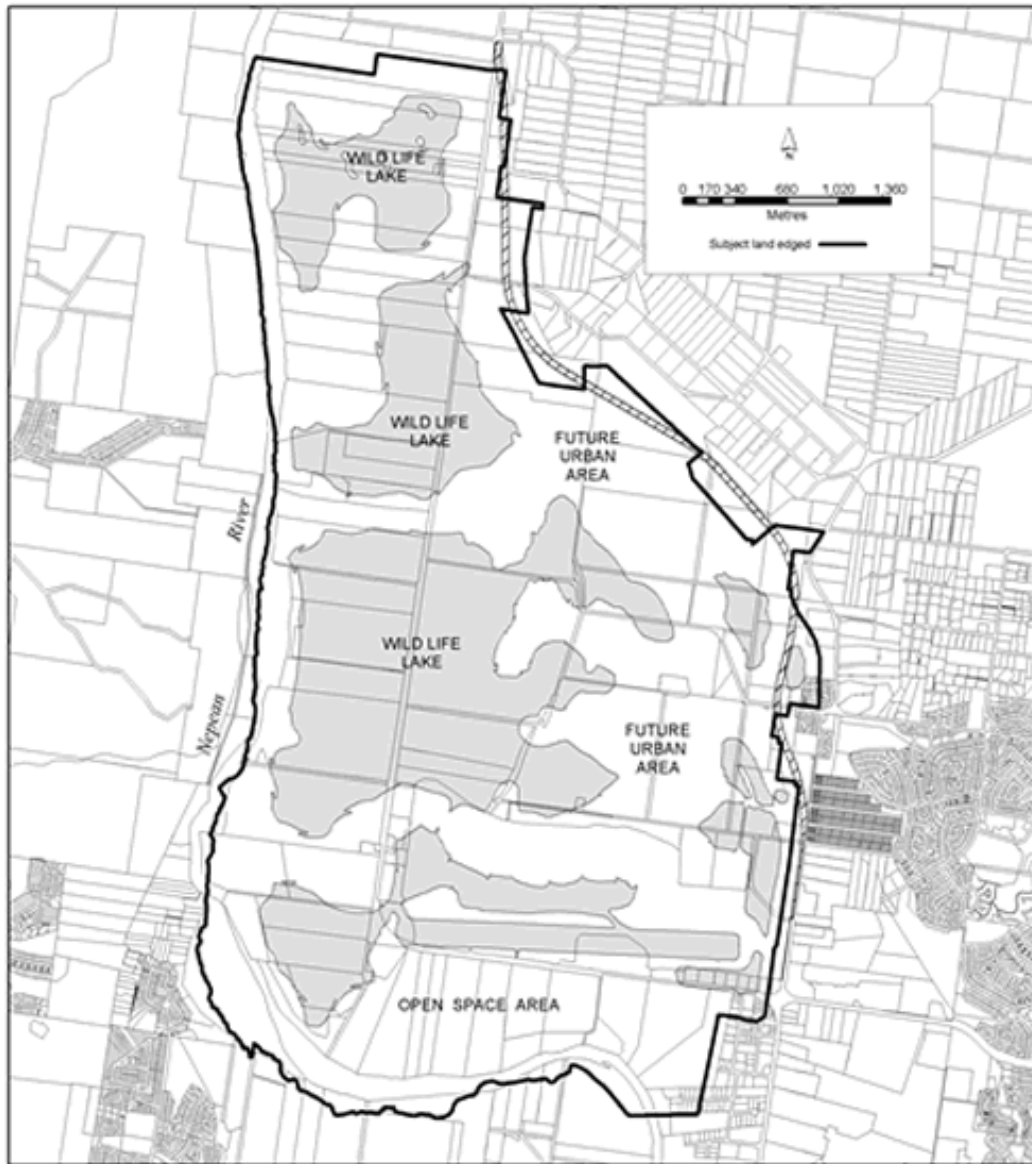


**Map 3—Schedule 2—Newcastle—Honeysuckle**

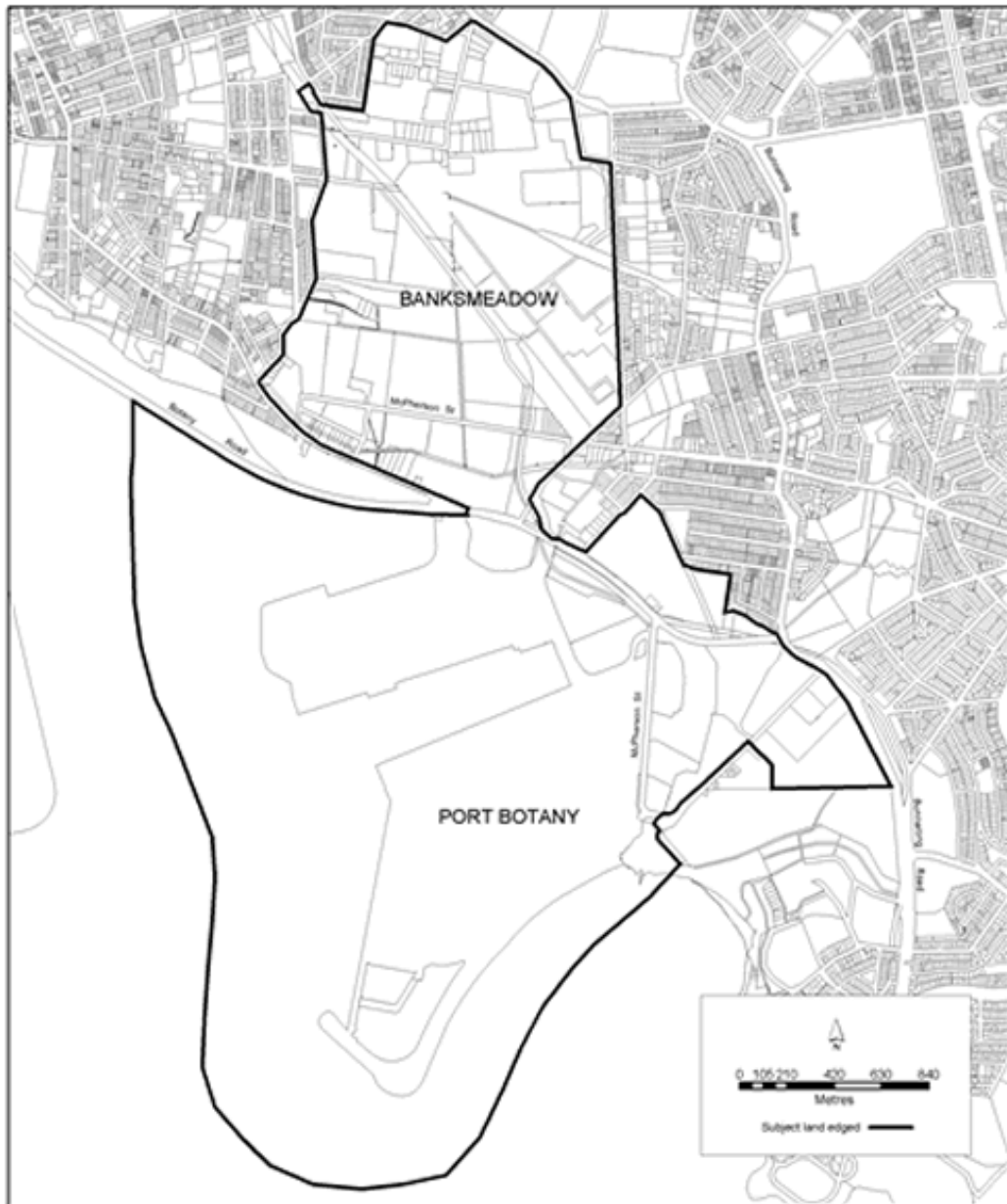




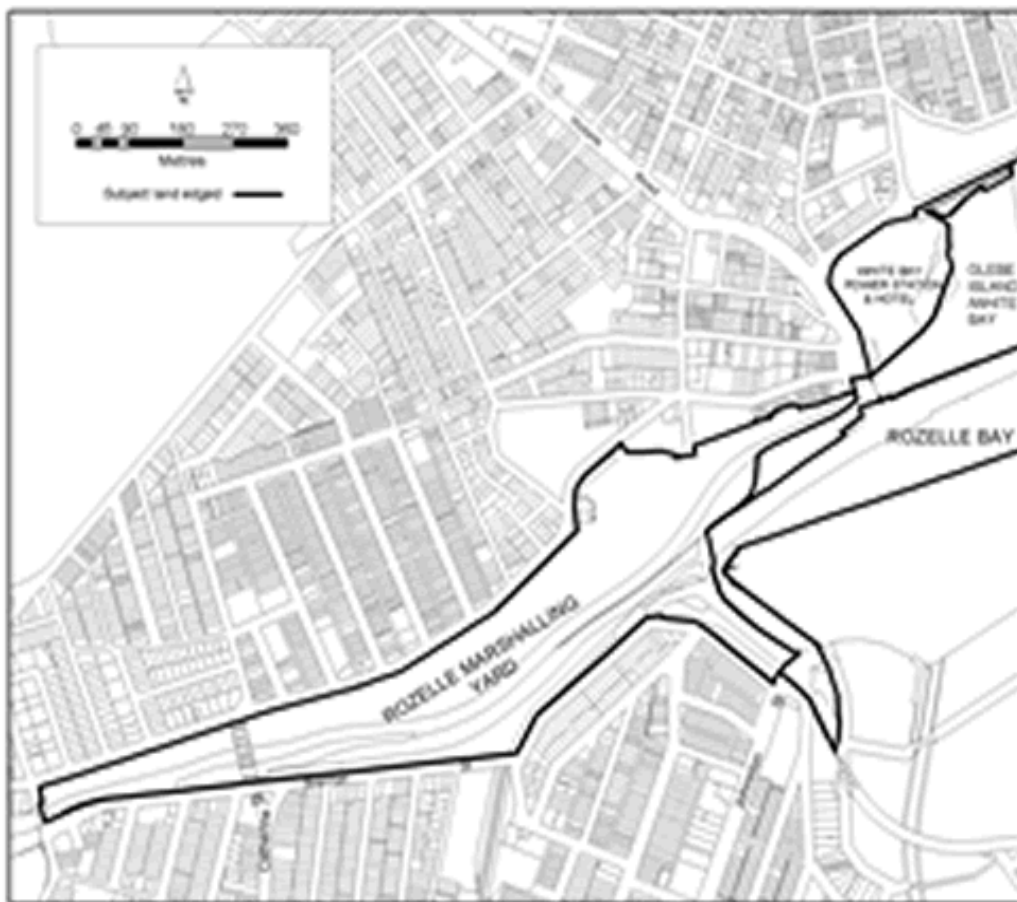
**Map 4—Schedule 2—Penrith Lakes**



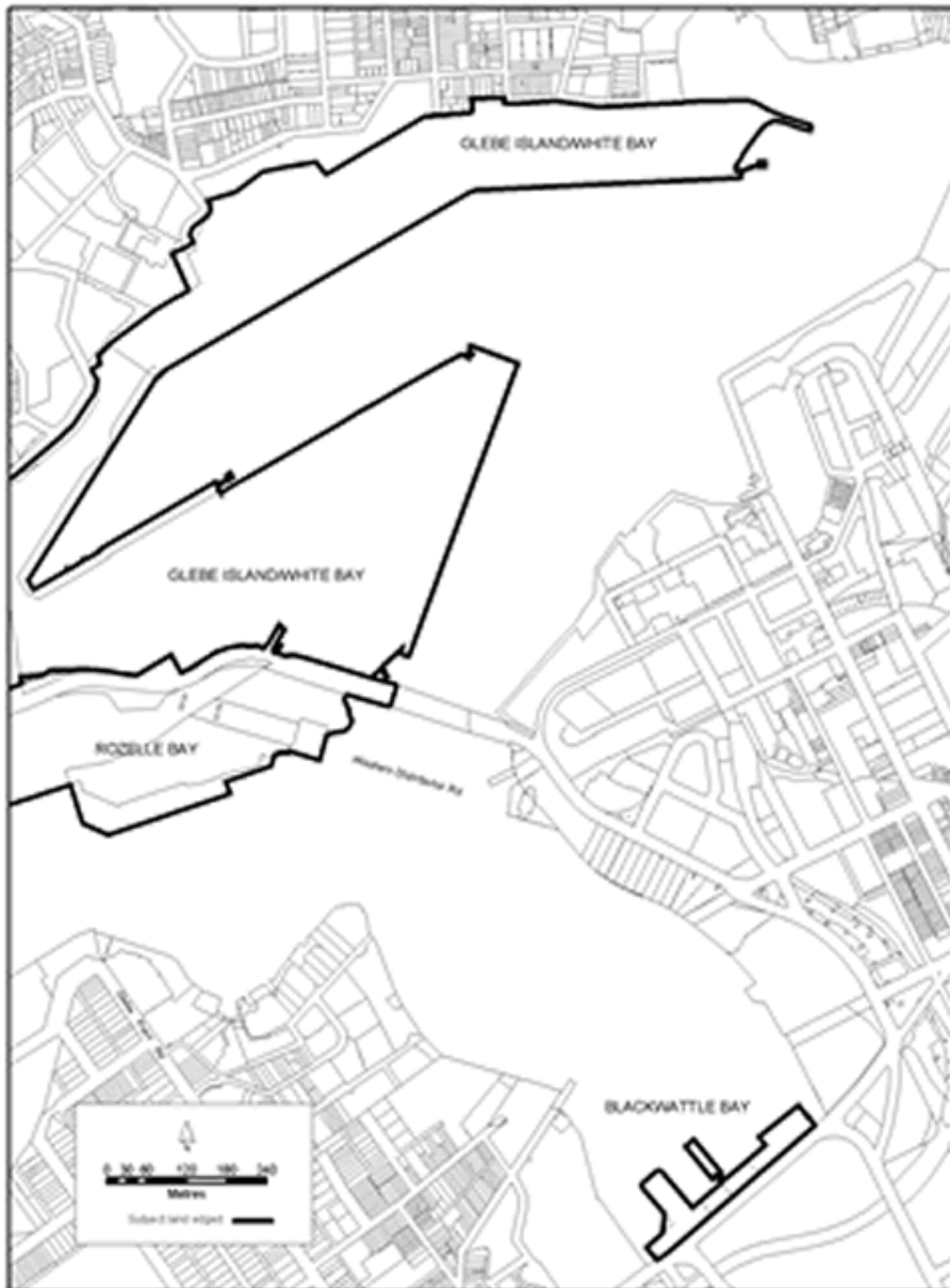
**Map 5—Schedule 2—Port and Related Employment Lands**



**Map 6A—Schedule 2—Port and Related Employment Lands**

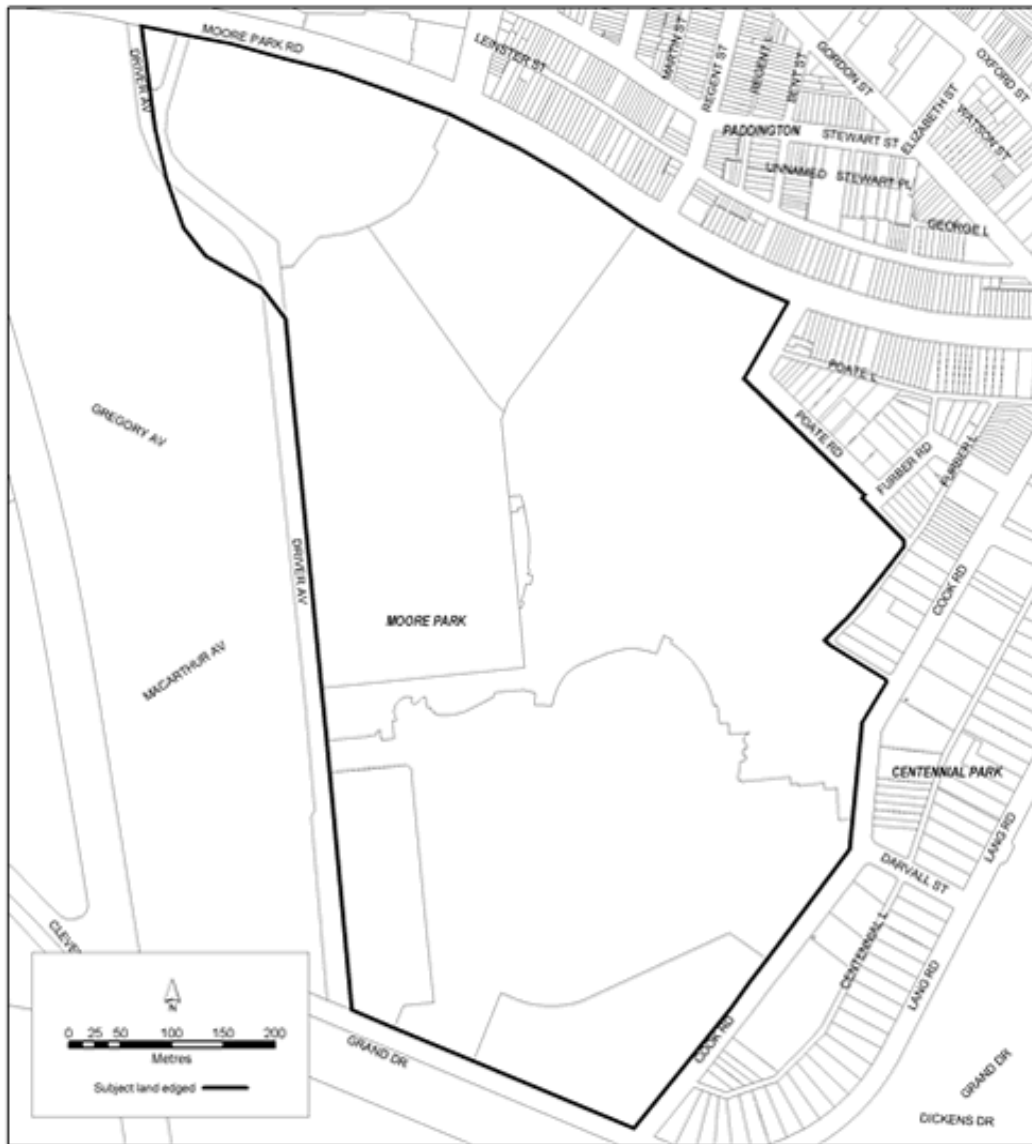


**Map 6B—Schedule 2—Port and Related Employment Lands**

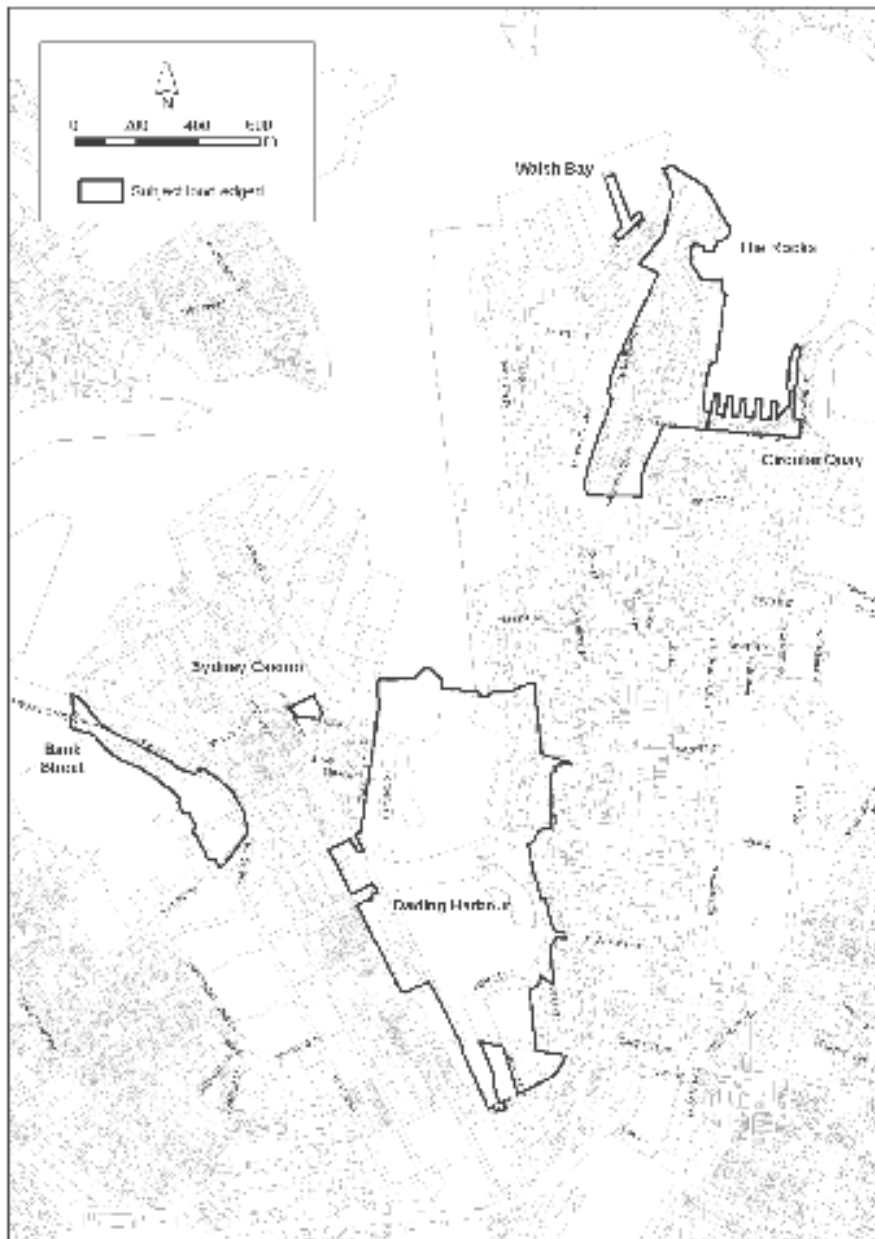


**Map 7—Schedule 2 (Repealed)**

**Map 8—Schedule 2—Fox Studios, Moore Park Showground and Sydney Cricket Grounds**

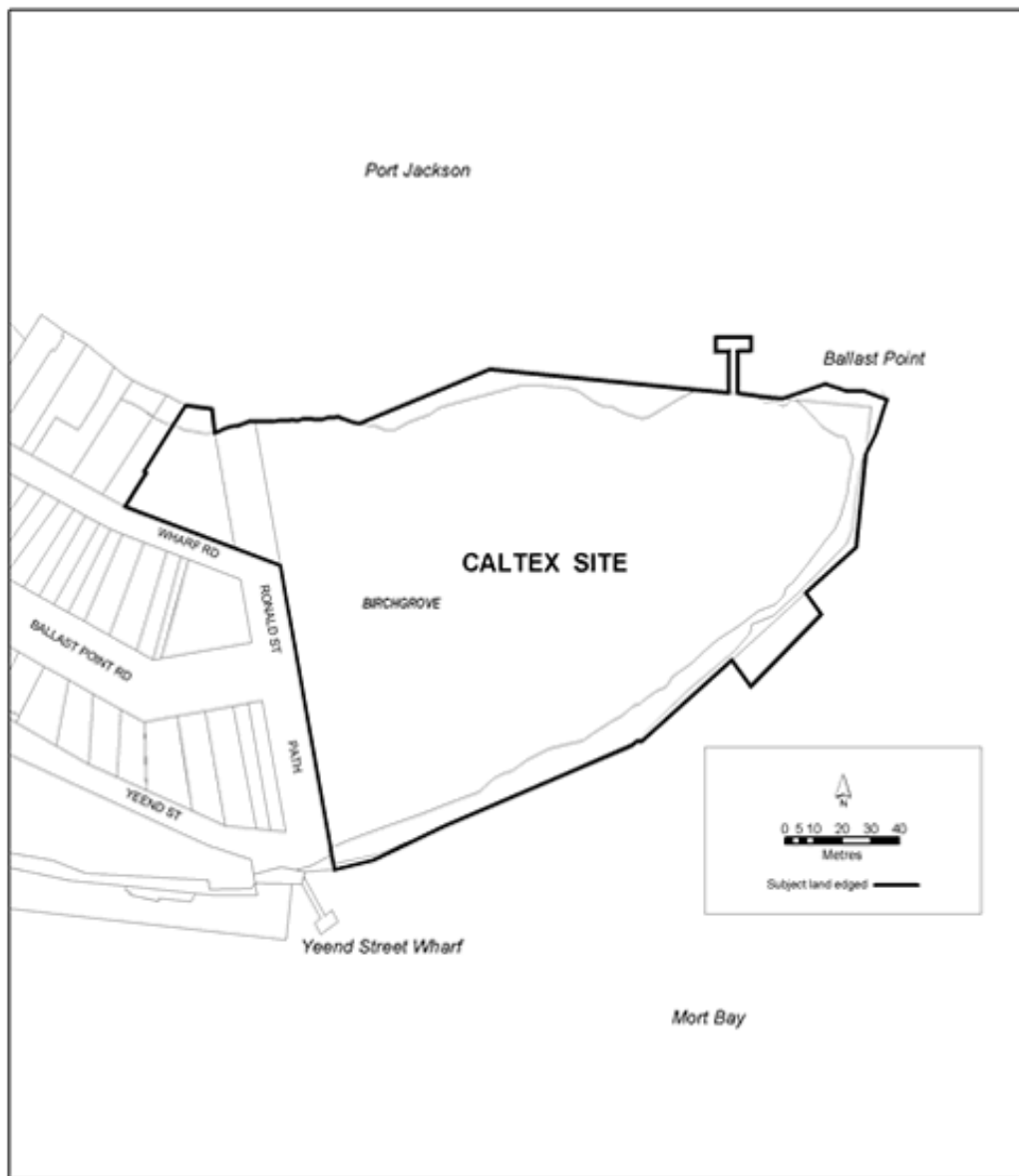


**Map 9—Schedule 2—Sydney Harbour Foreshore Sites**



**Map 10—Schedule 2 (Renumbered as Map 2—Schedule 3)**

**Map 11—Schedule 2—Caltex Site, Ballast Point**

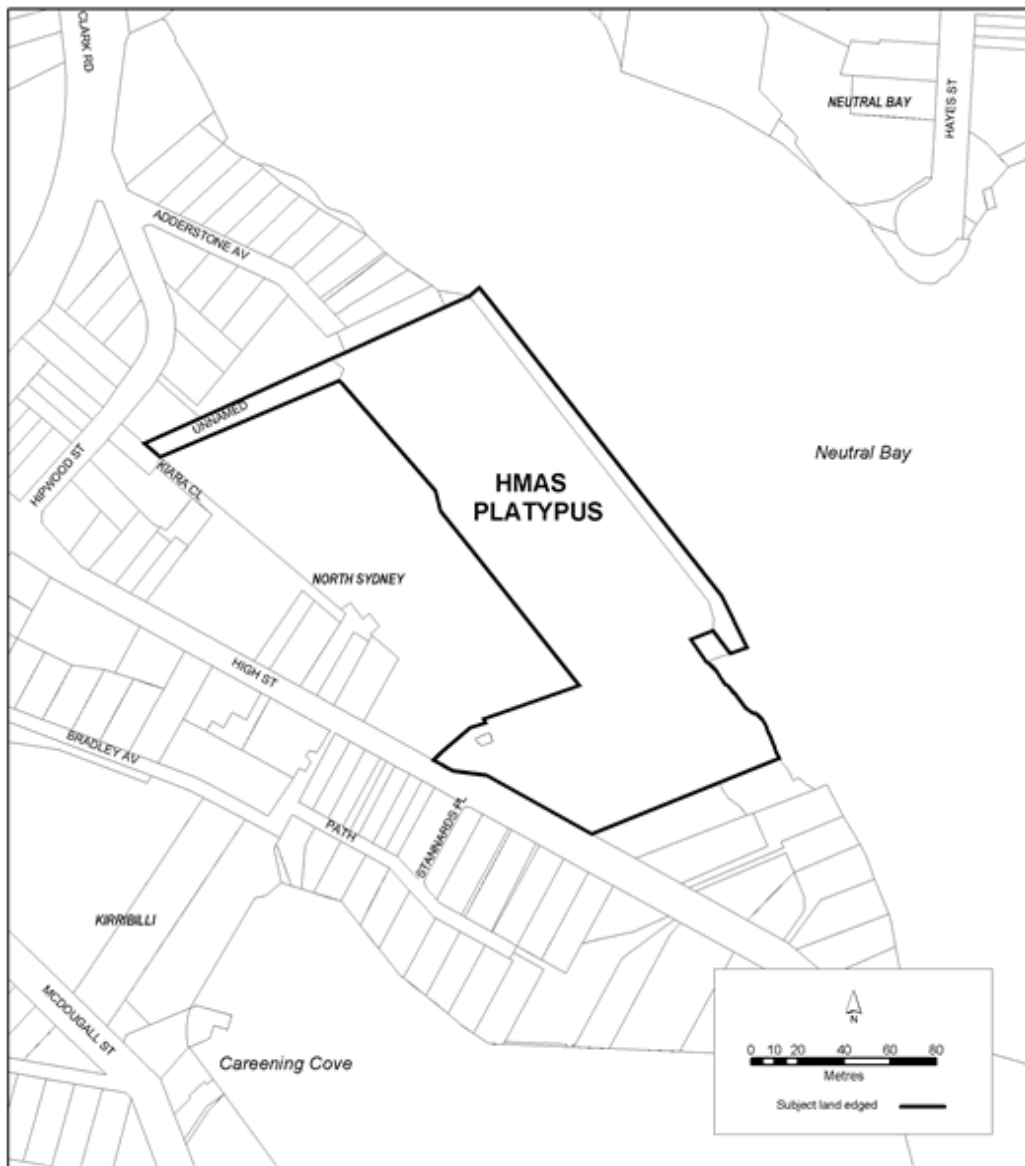


**Map 12—Schedule 2—ADI Site, Ryde**

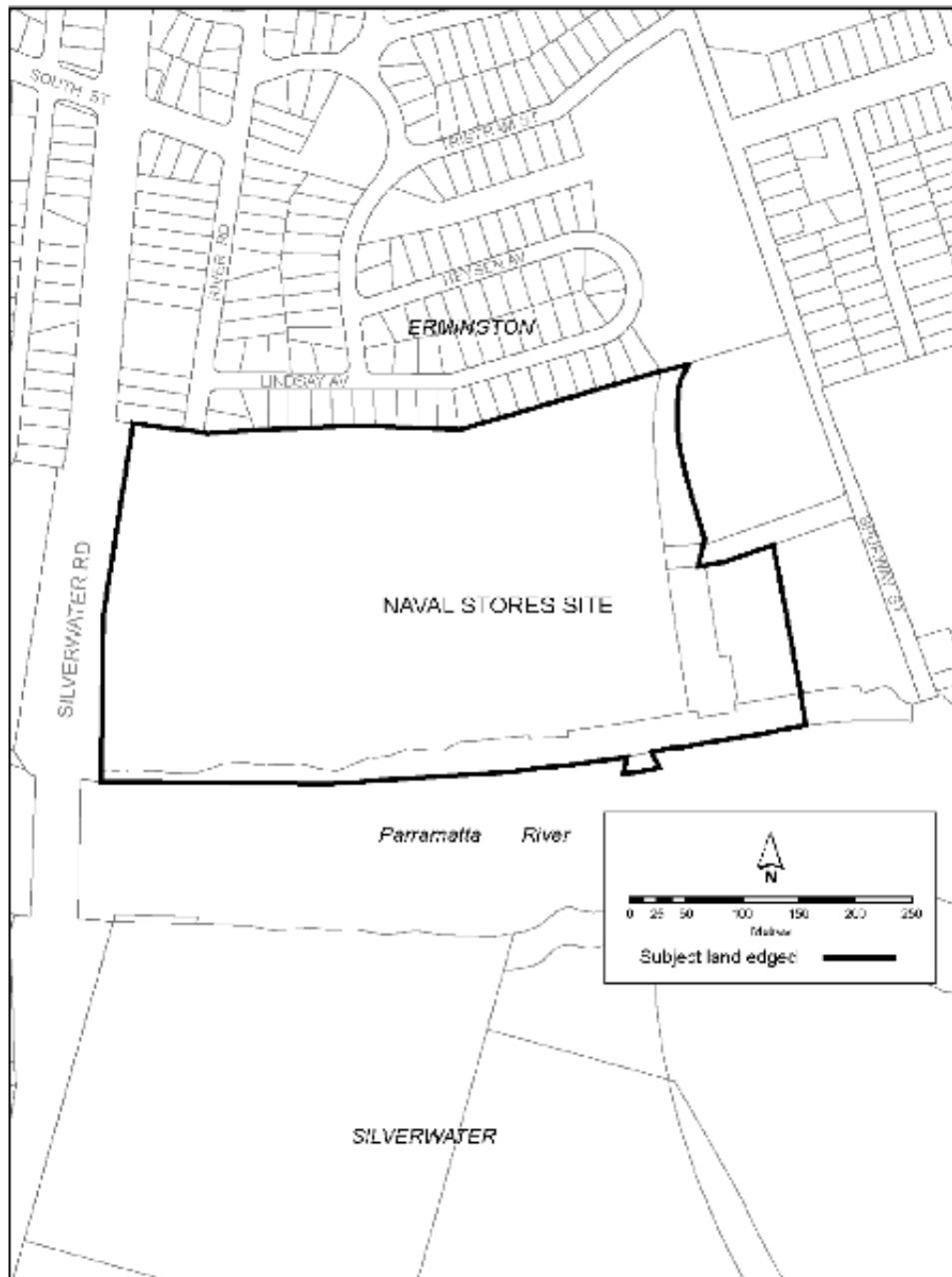




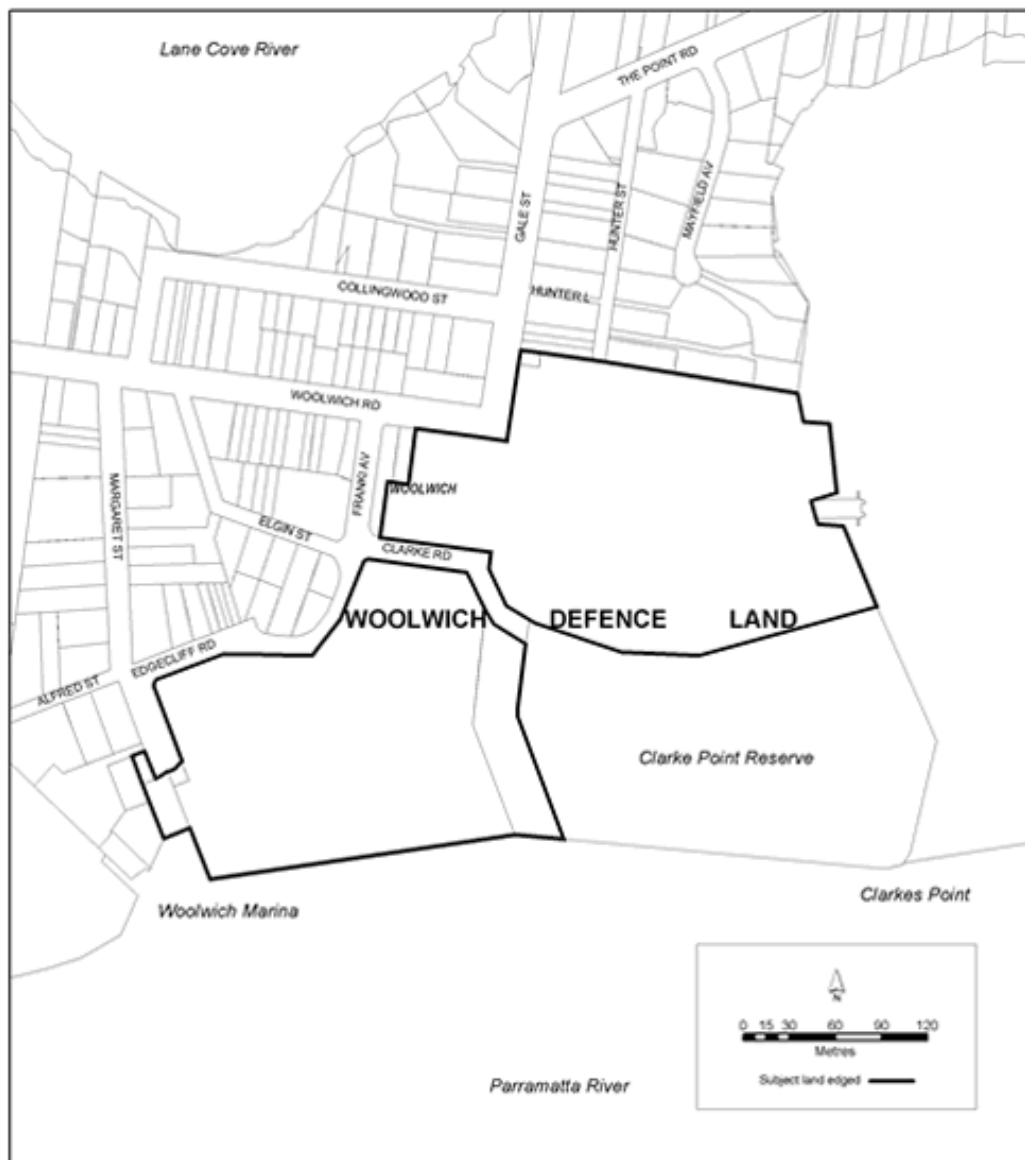
**Map 13—Schedule 2—HMAS Platypus**



**Map 14—Schedule 2—Naval Stores Site, Ermington**



**Map 15—Schedule 2—Woolwich Defence Land**



**Map 16—Schedule 2 (Repealed)**

**Schedule 3 State significant sites**

(Clauses 6 and 7)

**Part 1 Sydney Opera House**

**Division 1 Part 3A projects**

**1 Part 3A projects**

All development on land identified on Map 1 to this Schedule.

## **Division 2 Exempt development**

### **2 Definition**

In this Division:

**CMP** means the conservation management plan for the Sydney Opera House and its site as adopted and published for the time being by the Sydney Opera House Trust.

### **3 Exempt development**

The development described in this Division is exempt development if it is of minimal environmental impact and complies with the applicable requirements under this Division.

### **4 Minor Repairs**

- (1) Exempt development includes minor repairs, including the replacement of missing, damaged or deteriorated fabric that is beyond further maintenance.
- (2) Any such exempt development must comply with the following requirements:
  - (a) the repairs must not adversely affect the heritage significance of the Sydney Opera House,
  - (b) the repairs must match the existing fabric in appearance, material and method of affixing,
  - (c) the repairs must not involve damage or removal of other fabric graded “some”, “considerable” or “exceptional” significance in the CMP.

### **5 Minor internal alterations and additions**

- (1) Exempt development includes minor internal alterations and additions including:
  - (a) minor building works and alterations to the backstage infrastructure and performance venues (such as widening the doors or updating flying systems) for the purpose of improving the operational efficiency,
  - (b) minor works and fitout of new technology for telecommunications and technical purposes,
  - (c) replacement of doors, walls, ceiling or floor linings,
  - (d) renovation of bathrooms, kitchens and storage areas.
- (2) Any such exempt development must comply with the following requirements:
  - (a) the development must not adversely affect the heritage significance of the Sydney Opera House,
  - (b) any internal alterations must not affect the load-bearing capacity of any load-

bearing component of the building,

- (c) the development must have no adverse effect on fabric and spaces rated “some”, “considerable” or “exceptional” significance in the CMP.

## **6 Minor building works related to permanent and temporary security arrangements**

- (1) Exempt development includes minor building works related to permanent and temporary security arrangements, including:
  - (a) the installation of security cameras, light fittings and other minor alterations and additions to the interior or exterior spaces of the building to upgrade building security,
  - (b) the installation of emergency security fencing, scaffolding, hoardings or other barriers to prevent unauthorised access or to secure public safety.
- (2) Any such exempt development must comply with the following requirements:
  - (a) the minor building works must not adversely affect the heritage significance of the Sydney Opera House,
  - (b) the minor building works must not involve significant changes to the external appearance of the building,
  - (c) the minor building works must have no adverse effect on fabric and spaces rated “some”, “considerable” or “exceptional” significance in the CMP,
  - (d) the minor building works must be appropriate having regard to current and future risk/threat assessments provided by State and/or Commonwealth security agencies or by recognised security consultants commissioned by the Sydney Opera House and the NSW Police Force.

## **7 Internal works and fitout of shops, restaurants, cafes and offices**

- (1) Exempt development includes internal works and fitout of shops, restaurants, cafes and offices.
- (2) Any such exempt development must comply with the following requirements:
  - (a) the development must not adversely affect the heritage significance of the Sydney Opera House,
  - (b) the development must not involve significant changes to the external appearance of the building,
  - (c) the development must have no adverse effect on fabric and spaces rated “some”, “considerable” or “exceptional” significance in the CMP.

## **8 Minor public domain works**

- (1) Exempt development includes minor public domain works including:
  - (a) footpath improvements, tree planting, re-paving, street surfacing, kerb reconstruction, footpaths, gutters, street furniture (benches, bollards, public artwork, installations and street lighting), and
  - (b) installation of permanent directional/wayfinding signage.
- (2) Any such exempt development must comply with the following requirements:
  - (a) the works must not adversely affect the heritage significance of the Sydney Opera House,
  - (b) the works must have no adverse effect on fabric and spaces rated “some”, “considerable” or “exceptional” significance in the CMP,
  - (c) the works must not prevent public access to, and use of, the adjoining public domain.

## **9 Installation of minor structures ancillary to the use of Sydney Opera House**

- (1) Exempt development includes the installation of minor structures ancillary to the use of the Sydney Opera House, including small structures to house on-line information, refreshment vending carts (up to a maximum number of 12), ticketing and banking services and plasma and flat screen displays for the purpose of promoting performances and sponsors.
- (2) Any such exempt development must comply with the following requirements:
  - (a) the structures must not adversely affect the heritage significance of the Sydney Opera House,
  - (b) the structures do not obstruct views identified as significant in the CMP,
  - (c) the structures must not prevent public access to, and use of, the adjoining public domain,
  - (d) the structures must have no adverse effect on fabric and spaces rated “some”, “considerable” or “exceptional” significance in the CMP.

## **10 Signage associated with shops, cafes, restaurants and offices, and signage for the purpose of advertising events within Sydney Opera House**

- (1) Exempt development includes signage associated with shops, cafes, restaurants and offices, and signage for the purposes of advertising the events within the Sydney Opera House such as concourse posters, and light boxes, including:
  - (a) removal of signage,

(b) replacement of existing signage with new signage,

(c) installation of new signage.

(2) Any such exempt development must comply with the following requirements:

(a) the signage must be identified as non-intrusive or of “low” significance in the CMP,

(b) the development must make no change to the dimension, size and location of the existing signage,

(c) any new signage must be consistent with signage for adjoining tenancies in regard to size, dimension, location, design details and total number,

(d) the development must have no adverse effect on fabric and spaces rated “some”, “considerable” or “exceptional” significance in the CMP.

#### **11 Temporary use of Sydney Opera House to project fireworks or make broadcast**

(1) Exempt development includes the temporary use of the Sydney Opera House to project fireworks or make a broadcast.

(2) Any such use must comply with the following requirements:

(a) the use must not adversely affect the heritage significance of the Sydney Opera House,

(b) the use must have no adverse effect on fabric and spaces rated “some”, “considerable” or “exceptional” significance in the CMP,

(c) the use must be only for limited periods and on infrequent occasions,

(d) the use must be confined to exceptional, non-commercial occasions of brief duration.

#### **12 Temporary use of public space for community events**

(1) Exempt development includes the temporary use of public space for community events that are open to the general public with no entry charges, including public gatherings, ceremonies, celebrations, sporting events, events for community and outdoor exhibitions that may involve the installation of temporary structures having minimal visual impact (such as barricading) that are otherwise ancillary to the event.

(2) Any such use must comply with the following requirements:

(a) the use occurs between the hours of 8.00am to 11.00pm on Sundays to Thursdays and 8.00am to midnight on Fridays and Saturdays, except New Years Eve celebrations which may occur between 8.00am and 2.00am,

(b) community events (not more than four events in total in a calendar year) can start



as early as 6.00am,

- (c) set-up and clean-up can occur one day before and one day after each event, except some community events (not more than a total of five events in a calendar year) with longer set-up and clean-up times may be required (not more than six bump in/out days in total per event),
- (d) should the event involve amplified music, ancillary to the main purpose of the event, the noise levels at the following locations must not exceed the background noise levels:
  - (i) Beulah Street Wharf (off Waruda Street), Kirribilli,
  - (ii) Cremorne Wharf (off Milson Road), Cremorne Point,
  - (iii) a point within 1 metre of the residential boundary nearest to the Sydney Opera House at Bennelong Apartments, East Circular Quay,
  - (iv) Dawes Point Park (off Lower Fort Street), Millers Point,
- (e) all amplified music is to commence after 8.00am (except for those four events in total in a calendar year which may start as early as 6.00am) and to cease by 10.30pm on Sundays to Thursdays and 11.30pm on Fridays and Saturdays,
- (f) lighting associated with events must not cause adverse impact on the area surrounding the site,
- (g) the event does not include staging of private or commercial functions,
- (h) back of house areas must be carefully designed (fencing and gates must be of high quality, and provide artwork and visual interest/public information in appropriate places).

### **13 Temporary use of public space for minimal impact events related to the primary function of Sydney Opera House**

- (1) Exempt development includes the temporary use of public space for minimal impact events related to the primary function of the Opera House as a performing arts centre, including temporary outdoor events and performances, such as Sydney Festival events, that involve the installation of temporary structures (including main stage, sound and lighting systems) having minimal visual impact that are otherwise ancillary to the event for which an entry fee may be charged.
- (2) Any such use must comply with the following requirements:
  - (a) the use takes place not more than 40 days (whether consecutive or not) in any 12 month period,
  - (b) the use occurs between the hours of 8.00am to 11.00pm on Sundays to Thursdays

(all amplified music to commence after 10.00am and to cease by 10.30pm) and 8.00am to midnight on Fridays and Saturdays (all amplified music to commence after 10.00am and to cease by 11.30pm),

- (c) no more than 5,000 people attend each event at any one time,
- (d) in addition to the maximum events days (ie 40 days) set-up and clean-up can occur one day before and one day after each event. Any additional days required for set-up and clean-up are to be included within the 40 days,
- (e) lighting associated with events must not cause adverse impact on the area surrounding the site,
- (f) noise levels at the following locations must not exceed  $L_{Amax}$  70 dB(A) and  $L_{Cmax}$  90 dB(C) from Friday to Saturday and  $L_{Amax}$  65 dB(A) and  $L_{Cmax}$  85 dB(C) from Sunday to Thursday:
  - (i) Beulah Street Wharf (off Waruda Street), Kirribilli,
  - (ii) Cremorne Wharf (off Milson Road), Cremorne Point,
  - (iii) a point within 1 metre of the residential boundary nearest to the Sydney Opera House at Bennelong Apartments, East Circular Quay,
  - (iv) Dawes Point Park (off Lower Fort Street), Millers Point.

**14 Erection of temporary building ancillary to the temporary use of a public space for minimal impact events**

- (1) Exempt development includes the erection of temporary buildings ancillary to the temporary use of a public space for minimal impact events.
- (2) Any such use must comply with the following requirements:
  - (a) all temporary buildings related to events must be confined to the event site area,
  - (b) public access to the lower concourse via the southern escalators, southern stairs and ramp must not be obstructed at any time,
  - (c) public access must not be obstructed between the bottom of the Tarpeian Steps and Royal Botanic Gardens Opera House Gate along the forecourt except during events,
  - (d) must not obstruct views identified as significant in the CMP,
  - (e) must have no adverse effect on fabric and spaces rated “some”, “considerable” or “exceptional” significance in the CMP,
  - (f) details of temporary buildings must be consistent with the principles of the CMP in

relation to “exterior furniture”,

(g) any temporary building must not remain in place for not more than 40 days (whether consecutive or not) in any 12 month period, excluding one day bump-in and one day bump-out for each event.

(3) In this clause, **minimal impact events** include temporary outdoor events and performances such as Sydney Festival events that involve the installation of temporary structures (including main stage, sound and lighting systems) having minimal visual impact that are otherwise ancillary to the event.

**15 Erection of temporary signage ancillary to the temporary use of a public space for community events and minimal impact events**

(1) Exempt development includes the erection of temporary signage ancillary to the temporary use of a public space for community events and minimal impact events.

(2) Any such use must comply with the following requirements:

(a) must not adversely affect the heritage significance of the Sydney Opera House,

(b) must have no adverse effect on fabric rated “some”, “considerable” or “exceptional” significance in the CMP,

(c) must not be displayed for more than fourteen days before a temporary outdoor event and must be removed within seven days after the event,

(d) does not obstruct views identified as significant in the CMP,

(e) must not contain general advertising unrelated to events or sponsors at the Sydney Opera House,

(f) any temporary signage ancillary to minimal impact events must not remain in place for more than 60 days (whether consecutive or not) in any 12 month period.

(3) In this clause:

**community events** include public gatherings, ceremonies, celebrations, sporting events, events for community and outdoor exhibitions that may involve the installation of temporary structures having minimal visual impact (such as barricading) that are otherwise ancillary to the event.

**minimal impact events** include temporary outdoor events and performances, such as Sydney Festival events, that involve the installation of temporary structures (including main stage, sound and lighting systems) having minimal visual impact that are otherwise ancillary to the event.

## **Part 2 The Luna Park site**

### **Division 1 Part 3A projects**

#### **1 Part 3A projects**

Such development on land identified on Map 2 to this Schedule as has a capital investment value of more than \$5 million.

### **Division 2 Provisions relating to development on Luna Park site**

#### **2 Development near the intersection of Glen and Dind Streets, North Sydney**

- (1) This clause applies to land in the cliff top area, near the intersection of Glen and Dind Streets, North Sydney, being such part of Lot 1 DP 1066900 as comprises former Lots 1259 and 1260 DP 48514 (**the cliff top sites**).
- (2) This clause applies to development that, pursuant to clause 1, is a project to which Part 3A of the Act applies.
- (3) Development may be carried out on the cliff top sites for any purpose that is an authorised use under section 6C of the [Luna Park Site Act 1990](#) in relation to the cliff top area.
- (4) Any building on the cliff top sites:
  - (a) must not exceed:
    - (i) in the case of a building on land comprising former Lot 1259 DP48514, 44.8 metres in height above Australian Height Datum, or
    - (ii) in the case of a building on land comprising former Lot 1260 DP48514, 31.5 metres in height above Australian Height Datum, and
  - (b) must not encroach on land beneath the canopy of any heritage fig tree.
- (5) Any building on land comprising former Lot 1259 DP48514, and any parking space on that land, must be set back at least 6 metres from the northern boundary of that land.
- (6) Subclause (5) does not prevent the erection, within 6 but no closer than 1.7 metres of the northern boundary, of any structure to facilitate vehicular access to parking spaces within the building.
- (7) Any building erected on the cliff top sites must not interfere with sight lines along Glen and Northcliff Streets to such an extent as to be a hazard to traffic.
- (8) Any building erected on the cliff top sites, and the process of erecting any such building, must not threaten or damage any heritage fig tree and, in particular, any land beneath the canopy of any heritage fig tree must not be used for any purpose in

connection with the erection of any such building.

(9) Appropriate arrangements must be made to give public access to the open spaces around any building on the cliff top sites.

(10) *State Environmental Planning Policy No 1—Development Standards* does not apply to or in respect of the cliff top sites.

(11) In this clause:

**cliff top area** has the same meaning as it has in Part 2A of the *Luna Park Site Act 1990*.

**heritage fig tree** means a fig tree that is a heritage item for the purposes of *North Sydney Local Environmental Plan 2001*.

## Part 3 Royal Rehabilitation Centre Sydney site

### Division 1 Preliminary

#### 1 Definition of particular terms

In this Part:

**dwelling** and **floor space ratio** have the same meanings as they have in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

**RRCS site** means the land as shown edged heavy black on the map marked “*State Environmental Planning Policy (Major Projects) 2005 (Amendment No 5)—Royal Rehabilitation Centre Sydney Site*”.

**Note—**

As at the commencement of this Part, the RRCS site is the location of the Royal Rehabilitation Centre Sydney, comprising Lot 1010, DP 836975 and Lot 102, DP 826426, in Ryde.

**storey** means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or
- (b) a mezzanine.

#### 2 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 from time to time by maps declared by environmental planning instruments to amend 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.

### **3 Meaning of development purposes**

Words and expressions used to refer to a development purpose in clause 8, 9 or 10 have the same meaning as they have in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

### **4 Application of this Part**

Nothing in this Part applies to or with respect to development for the purposes of a public utility undertaking.

**Note—**

Development for the purposes of a public utility undertaking may, by operation of another Schedule to this Policy, be a project to which Part 3A of the Act applies.

## **Division 2 Part 3A projects**

### **5 Part 3A projects**

(1) Such development within the RRCS site as has a capital investment value of more than \$5 million.

(2) Subdivision of land within the RRCS site, other than a strata title subdivision, a community title subdivision, or a subdivision for any one or more of the following purposes:

(a) widening a public road,

(b) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,

(c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,

(d) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,

(e) rectifying an encroachment on a lot,

- (f) creating a public reserve,
- (g) 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 conveniences.

### **Division 3 Provisions applying to development within Royal Rehabilitation Centre Sydney site**

#### **6 Application of Division**

This Division applies with respect to development within the RRCS site and so applies whether or not the development is a project to which Part 3A of the Act applies.

#### **7 Land use zones**

- (1) For the purposes of this Policy, land within the RRCS site is in a zone as follows if the land is shown on the map marked "*State Environmental Planning Policy (Major Projects) 2005 (Amendment No 5)—Zoning Map*" as being within that zone:
  - (a) General Residential Zone,
  - (b) Public Recreation Zone,
  - (c) Special Activities (Royal Rehabilitation Centre Sydney) Zone.
- (2) 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.

#### **8 General Residential Zone**

- (1) The objectives of the General Residential Zone 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 with consent within the General Residential Zone:

boarding houses; car parks; child care centres; community facilities; dwelling houses; educational establishments; group homes; home-based child care or family day care homes; home businesses; home industries; home occupations; hostels; multi dwelling housing; neighbourhood shops; office premises; places of public worship; recreation areas; residential care facilities; residential flat buildings; roads that are not classified roads; seniors housing; shop top housing;

telecommunications facilities.

- (3) Except as otherwise provided by this Policy, development is prohibited within the General Residential Zone unless it is permitted by subclause (2).

## **9 Public Recreation Zone**

- (1) The objectives of the Public Recreation Zone are as follows:

- (a) to enable land to be used for 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.

- (2) Development for any of the following purposes is permitted with consent within the Public Recreation Zone:

car parks; child care centres; community facilities; environmental protection works; kiosks; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); roads that are not classified roads; telecommunications facilities.

- (3) Except as otherwise provided by this Policy, development is prohibited within the Public Recreation Zone unless it is permitted by subclause (2).

## **10 Special Activities (Royal Rehabilitation Centre Sydney) Zone**

- (1) The objectives of the Special Activities (Royal Rehabilitation Centre Sydney) Zone are as follows:

- (a) to encourage the development of land for the purpose of promoting community welfare by the service delivery of a State significant rehabilitation and research centre and delivery of an improved health service to northern Sydney and the State,
- (b) to provide for special land uses that are not provided for in other zones under this Policy,
- (c) to provide for sites with special natural characteristics that are not provided for in other zones under this Policy,
- (d) to facilitate development that is in keeping with the special characteristics of the RRCS site or its existing or intended special use.

- (2) Development for any of the following purposes is permitted with consent within the Special Activities (Royal Rehabilitation Centre Sydney) Zone:

- (a) a hospital,



(b) the following purposes, but only if the development is ancillary to development for the purposes of a hospital:

car parks; recreation areas; recreation facilities (indoor); recreational facilities (outdoor); roads that are not classified roads; telecommunication facilities.

(3) Except as otherwise provided by this Policy, development is prohibited within the Special Activities (Royal Rehabilitation Centre Sydney) Zone unless it is permitted by subclause (2).

## **11 Development controls**

(1) The height of a building on any land is not to exceed the maximum number of storeys shown for the land on the map marked "*State Environmental Planning Policy (Major Projects) 2005 (Amendment No 5)—Building Height Map*".

(2) The floor space ratio of a building on any land is not to exceed the floor space ratio shown for the land on the map marked "*State Environmental Planning Policy (Major Projects) 2005 (Amendment No 5)—Floor Space Ratio Map*".

(3) Development for the purposes of a dwelling must not be carried out if it would result in an average density of more than 50 dwellings per hectare.

(4) For the purposes of subclause (3), the average density is to be calculated by reference to the total area of the RRCS site excluding the land within the Special Activities (Royal Rehabilitation Centre Sydney) Zone.

## **Division 4 Miscellaneous**

### **12 Relationship with other environmental planning instruments**

The only environmental planning instruments that apply, according to their terms, to or in respect of development within the RRCS site are as follows:

(a) in the case of development that is a project to which Part 3A of the Act applies—this Policy and all other State environmental planning policies except *State Environmental Planning Policy No 1—Development Standards*,

(b) in the case of all other development—all environmental planning instruments except *State Environmental Planning Policy No 1—Development Standards*.

### **13 Exempt and complying development**

Development within the RRCS site that satisfies the requirements for exempt development or complying development specified in Ryde City Council's *Exempt and Complying Development—Development Control Plan No 34*, as in force on 25 November 2005, is exempt development or complying development, as appropriate.

## 14 Acquisition of land within RRCS site

- (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 within the RRCS site, 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 that land (or, if none is specified, the authority designated or determined under those provisions):

<b>Zone</b>	<b>Authority of the State</b>
Public Recreation Zone	The corporation constituted by section 8 (1) of the Act

- (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.

## Part 4 Channel 7 site

### Division 1 Preliminary

#### 1 Definition of particular terms

In this Part:

**Channel 7 site** means the land as shown edged heavy black on the map marked “*State Environmental Planning Policy (Major Projects) 2005 (Amendment No 6)*”.

### Note—

The land shown on the map is a site in Epping that has been the location of television production studios (with a street address of 61 Mobbs Lane).

**dwelling** and **gross floor area** have the same meanings as they have in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

**storey** means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or

- (b) a mezzanine.

## **2 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 from time to time by maps declared by environmental planning instruments to amend 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.

## **3 Meaning of development purposes**

Words and expressions used to refer to a development purpose in clause 8 or 9 have the same meaning as they have in the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).

## **4 Application of this Part**

Nothing in this Part applies to or with respect to development for the purposes of a public utility undertaking.

### **Note—**

Development for the purposes of a public utility undertaking may, by operation of another Schedule to this Policy, be a project to which Part 3A of the Act applies.

## **Division 2 Part 3A projects**

### **5 Part 3A projects**

- (1) Such development within the Channel 7 site as has a capital investment value of more than \$5 million.
- (2) Subdivision of land within the Channel 7 site, other than a strata title subdivision, a community title subdivision, or a subdivision for any one or more of the following purposes:
  - (a) widening a public road,
  - (b) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,

- (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
- (d) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
- (e) rectifying an encroachment on a lot,
- (f) creating a public reserve,
- (g) 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 conveniences.

### **Division 3 Provisions applying to development within Channel 7 site**

#### **6 Application of Division**

This Division applies with respect to any development within the Channel 7 site and so applies whether or not the development is a project to which Part 3A of the Act applies.

#### **7 Land use zones**

- (1) For the purposes of this Policy, land within the Channel 7 site is in a zone as follows if the land is shown on the map marked "*State Environmental Planning Policy (Major Projects) 2005 (Amendment No 6)—Zoning Map*" as being within that zone:
  - (a) General Residential Zone,
  - (b) Public Recreation Zone.
- (2) 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.

#### **8 General Residential Zone**

- (1) The objectives of the General Residential Zone 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 with consent within the General Residential Zone:
  - boarding houses; car parks; child care centres; community facilities; dwelling houses; group homes; home-based child care or family day care homes; home

businesses; home industries; home occupations; hostels; multi dwelling housing; neighbourhood shops; office premises; places of public worship; recreation areas; residential care facilities; residential flat buildings; roads that are not classified roads; seniors housing; shop top housing; telecommunications facilities.

- (3) Except as otherwise provided by this Policy, development is prohibited within the General Residential Zone unless it is permitted by subclause (2).

## **9 Public Recreation Zone**

- (1) The objectives of the Public Recreation Zone are as follows:

- (a) to enable land to be used for 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 range of community uses that serve the needs of the people who live and work in the surrounding neighbourhood.

- (2) Development for any of the following purposes is permitted with consent within the Public Recreation Zone:

car parks; child care centres; community facilities; environmental facilities; environmental protection works; kiosks; recreation areas; recreation facilities (outdoor); roads that are not classified roads.

- (3) Except as otherwise provided by this Policy, development is prohibited within the Public Recreation Zone unless it is permitted by subclause (2).

## **10 Development controls**

- (1) The height of a building on any land is not to exceed the maximum number of storeys shown for the land on the map marked "*State Environmental Planning Policy (Major Projects) 2005 (Amendment No 6)—Building Height Map*".
- (2) Development for the purpose of a dwelling must not be carried out if it would result in:
- (a) an average density of more than 73 dwellings per hectare on the Channel 7 site, or
  - (b) there being more than 650 dwellings (whether of the same or different types) on the Channel 7 site, or
  - (c) the total of the gross floor areas for dwellings within the Channel 7 site exceeding 80,000 square metres.

## Division 4 Miscellaneous

### 11 Relationship with other environmental planning instruments

The only environmental planning instruments that apply, according to their terms, to or in respect of development within the Channel 7 site are as follows:

- (a) in the case of development that is a project to which Part 3A of the Act applies—this Policy and all other State environmental planning policies except *State Environmental Planning Policy No 1—Development Standards*,
- (b) in the case of all other development—all environmental planning instruments except *State Environmental Planning Policy No 1—Development Standards*.

### 12 Exempt and complying development

Development within the Channel 7 site that satisfies the requirements for exempt development or complying development specified in Parramatta City Council's *Parramatta Development Control Plan 2005*, as in force 14 December 2005, is exempt development or complying development, as appropriate.

### 13 Acquisition of land within Channel 7 site

- (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 within the Channel 7 site, 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 that land (or, if none is specified, the authority designated or determined under those provisions):

<b>Zone</b>	<b>Authority of the State</b>
Public Recreation Zone	The corporation constituted by section 8 (1) of the Act

- (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.

## Part 5 The Redfern-Waterloo Authority Sites

### Division 1 Preliminary

#### 1 Land to which Part applies

This Part applies to the area identified on Map 3 to this Schedule referred to in this Schedule as the **Redfern-Waterloo Authority Sites**.

#### 2 Definitions

(1) 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.

(2) In this Part:

**Floor Space Ratio Map** means the *State Environmental Planning Policy (Major Projects) 2005 Redfern-Waterloo Authority Sites—Floor Space Ratio Map*.

**Height of Buildings Map** means the *State Environmental Planning Policy (Major Projects) 2005 Redfern-Waterloo Authority Sites—Height of Buildings Map*.

**Heritage Map** means the *State Environmental Planning Policy (Major Projects) 2005 Redfern-Waterloo Authority Sites—Heritage Map*.

**Land Zoning Map** means the *State Environmental Planning Policy (Major Projects) 2005 Redfern-Waterloo Authority Sites—Land Zoning Map*.

**storey** means a space within a building that is situated between one floor level and the floor level next above or, if there is no floor level above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or
- (b) a mezzanine, or
- (c) an attic, or
- (d) a basement, or
- (e) any space within a building with a floor level that is predominantly below a basement.

#### 3 Relationship with other environmental planning instruments

All other environmental planning instruments do not apply to the Redfern-Waterloo Authority Sites, except for other State environmental planning policies.

#### **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.

### **Division 2 Part 3A projects**

#### **5 Part 3A projects**

Development (with a capital investment value of more than \$5 million) on land within the Redfern-Waterloo Authority Sites, but not including development for the purposes of public utility undertakings to which clause 19 (1) applies.

**Note—**

Clause 2 of Part 1 of Schedule 6 provides that the Minister is the consent authority for all development on the Redfern-Waterloo Authority Sites that is development to which Part 4 of the Act applies.

### **Division 3 Provisions relating to development of Redfern-Waterloo Authority Sites**

#### **6 Development to which Division applies**

The provisions of this Division apply with respect to development on land within the Redfern-Waterloo Authority Sites and so apply whether or not the development is a project to which Part 3A of the Act applies.

#### **7 Land use zones**

- (1) For the purposes of this Policy, land within the Redfern-Waterloo Authority Sites is within a zone specified below if the land is shown on the Land Zoning Map as being within that zone:
  - (a) Business Zone—Business Park



- (b) Business Zone—Commercial Core
  - (c) Business Zone—Mixed Use
  - (d) Business Zone—Local Centre
  - (e) Recreation Zone—Public Recreation
  - (f) Recreation Zone—Private Recreation
  - (g) Residential Zone—Medium Density Residential
  - (h) Special Purpose Zone—Infrastructure
  - (i) Special Purpose Zone—Community
- (2) The consent authority must take into consideration each of the objectives for development in a zone when determining a development application in respect of land within the zone.

#### **8 Business Zone—Business Park**

- (1) The objectives of the Business Zone—Business Park are as follows:
- (a) to establish business and technology parks to encourage employment generating activities that provide for a wide range of business, technology, educational and entertainment facilities in the Zone,
  - (b) to support development that is related or ancillary to business, technology or education,
  - (c) to support development for retail uses that primarily serve the needs of the working population in the Zone and the local community,
  - (d) to ensure the vitality and safety of the community and public domain,
  - (e) to ensure buildings achieve design excellence,
  - (f) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.
- (2) Development for any of the following purposes is prohibited on land within the Business Zone—Business Park:
- boarding houses; bulky goods premises; depots; dual occupancies; dwelling houses; group homes; hazardous industries; hazardous storage establishments; heavy industries; offensive industries; residential accommodation; restricted premises; sex services premises.
- (3) Except as otherwise provided by this Policy, development is permitted with consent on

land within the Business Zone—Business Park unless it is prohibited by subclause (2).

### **9 Business Zone—Commercial Core**

(1) The objectives of the Business Zone—Commercial Core are as follows:

- (a) to facilitate the development of a town centre,
- (b) to encourage employment generating activities by providing a wide range of retail, business, office, community and entertainment facilities,
- (c) to permit residential development that is compatible with non-residential development,
- (d) to maximise public transport patronage and encourage walking and cycling,
- (e) to ensure the vitality and safety of the community and public domain,
- (f) to ensure buildings achieve design excellence,
- (g) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.

(2) Development for any of the following purposes is prohibited on land within the Business Zone—Commercial Core:

bulky goods premises; depots; dual occupancies; dwelling houses; hazardous industries; hazardous storage establishments; heavy industries; home occupations (sex services); industries; light industries; offensive industries; offensive storage establishments; restricted premises; sex services premises; transport depots; truck depots; vehicle body repair workshops; warehouses or distribution centres.

(3) Except as otherwise provided by this Policy, development is permitted with consent on land within the Business Zone—Commercial Core unless it is prohibited by subclause (2).

### **10 Business Zone—Mixed Use**

(1) The objectives of the Business Zone—Mixed Use are as follows:

- (a) to support the development of sustainable communities with a mix of employment, educational, cultural and residential opportunities,
- (b) to encourage employment generating activities by providing a range of office, business, educational, cultural and community activities in the Zone,
- (c) to permit residential development that is compatible with non-residential development,
- (d) to maximise public transport patronage and encourage walking and cycling,

- (e) to ensure the vitality and safety of the community and public domain,
  - (f) to ensure buildings achieve design excellence,
  - (g) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.
- (2) Development for any of the following purposes is prohibited on land within the Business Zone—Mixed Use:
- bulky goods premises; depots; dual occupancies; dwelling houses; hazardous industries; hazardous storage establishments; heavy industries; home occupations (sex services); industries; offensive industries; offensive storage establishments; restricted premises; sex services premises; transport depots; truck depots; vehicle body repair workshops.
- (3) Except as otherwise provided by this Policy, development is permitted with consent on land within the Business Zone—Mixed Use unless it is prohibited by subclause (2).

#### **11 Business Zone—Local Centre**

- (1) The objectives of the Business Zone—Local Centre are as follows:
- (a) to facilitate the development of a local centre,
  - (b) to provide a range of retail, business, educational, health and community facilities in the Zone to serve the local community,
  - (c) to permit residential development that is compatible with non-residential development,
  - (d) to maximise public transport patronage and encourage walking and cycling,
  - (e) to ensure the vitality and safety of the community and public domain,
  - (f) to ensure buildings achieve design excellence,
  - (g) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.
- (2) Development for any of the following purposes is prohibited on land within the Business Zone—Local Centre:
- depots; dwelling houses; hazardous industries; hazardous storage establishments; heavy industries; home occupations (sex services); industries; light industries; offensive industries; offensive storage establishments; restricted premises; sex services premises; transport depots; truck depots; vehicle body repair workshops; warehouse or distribution centres.

- (3) Except as otherwise provided by this Policy, development is permitted with consent on land within the Business Zone—Local Centre unless it is prohibited by subclause (2).

## **12 Recreation Zone—Public Recreation**

- (1) The objectives of the Recreation Zone—Public Recreation are as follows:
- (a) to enable land to be used for public open space or recreational purposes,
  - (b) to enable development for the enjoyment of the community,
  - (c) to ensure the vitality and safety of the community and public domain,
  - (d) to enhance and protect the natural environment for recreational purposes,
  - (e) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.
- (2) Development for any of the following purposes may be carried out on land within the Recreation Zone—Public Recreation only with consent:
- car parks; environmental facilities; environmental protection works; kiosks; passenger transport facilities; recreation areas; recreation facilities (outdoor).
- (3) Except as otherwise provided by this Policy, development is prohibited on land within the Recreation Zone—Public Recreation unless it may be carried out under subclause (2).

## **13 Recreation Zone—Private Recreation**

- (1) The objectives of the Recreation Zone—Private Recreation are as follows:
- (a) to enable land to be used for private open space or recreational purposes,
  - (b) to enable a range of recreational and community activities and compatible land uses,
  - (c) to ensure the vitality and safety of the community and public domain,
  - (d) to enhance and protect the natural environment for recreational purposes,
  - (e) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.
- (2) Development for any of the following purposes may be carried out on land within the Recreation Zone—Private Recreation only with consent:
- car parks; community facilities; environmental facilities; environmental protection works; kiosks; passenger transport facilities; recreation areas; recreation facilities (indoor); recreation facilities (outdoor).

- (3) Except as otherwise provided by this Policy, development is prohibited on land within the Recreation Zone—Private Recreation unless it may be carried out under subclause (2).

#### **14 Residential Zone—Medium Density Residential**

- (1) The objectives of the Residential Zone—Medium Density Residential are as follows:
  - (a) to provide for a range and variety of housing types in the Zone,
  - (b) to allow for other types of development to provide facilities or services to meet the day to day needs of residents in the local area,
  - (c) to enable other development that is compatible with housing,
  - (d) to ensure the vitality and safety of the community and public domain,
  - (e) to ensure that buildings achieve design excellence,
  - (f) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.
- (2) Development for any of the following purposes may be carried out on land within the Residential Zone—Medium Density Residential only with development consent:

boarding houses; child care centres; community facilities; dual occupancies; dwelling houses; group homes; health consulting rooms; home industries; multi dwelling housing; neighbourhood shops; places of public worship; residential flat buildings; seniors housing; shop top housing; telecommunications facilities; temporary structures.
- (3) Except as otherwise provided by this Policy, development is prohibited on land within the Residential Zone—Medium Density Residential unless it may be carried out under subclause (2).

#### **15 Special Purpose Zone—Infrastructure**

- (1) The objectives of the Special Purpose Zone—Infrastructure are as follows:
  - (a) to provide for railway infrastructure and related facilities,
  - (b) to prevent development in the Zone that is not compatible with or may detract from the provision of railway infrastructure and related facilities,
  - (c) to ensure the vitality and safety of the community and public domain,
  - (d) to ensure that buildings achieve design excellence,
  - (e) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.

- (2) Development for any of the following purposes may be carried out on land within the Special Purpose Zone—Infrastructure only with consent:
  - (a) the alteration of or addition to a railway station; the construction of a new railway station; retail or business activities ancillary to a railway station,
  - (b) telecommunications facilities,
  - (c) access facilities (such as tunnels or bridges) that traverse the railway corridor.
- (3) Except as otherwise provided by this Policy, development is prohibited on land within the Special Purpose Zone—Infrastructure unless it may be carried out under subclause (2).

#### **16 Special Purpose Zone—Community**

- (1) The objectives of the Special Purpose Zone—Community are as follows:
  - (a) to enable land to be used for community purposes,
  - (b) to enable development to be carried out for the social, educational and recreational needs of the community,
  - (c) to support development that is related or ancillary to community, recreational or educational use of the land in the Zone,
  - (d) to ensure the vitality and safety of the community and public domain,
  - (e) to ensure that buildings achieve design excellence,
  - (f) to promote landscaped areas with strong visual and aesthetic values to enhance the amenity of the area.
- (2) Development for any of the following purposes may be carried out on land within the Special Purpose Zone—Community only with development consent:

advertisements; advertising structures; boarding houses; car parks; child care centres; community facilities; educational establishments; entertainment facilities; function centres; hostels; information and educational facilities; kiosks; medical centres; office premises; passenger transport facilities; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); registered clubs; restaurants; telecommunications facilities; temporary structures; tourist and visitor accommodation related or ancillary to community facilities, educational establishments, recreation facilities (indoor) or recreation facilities (outdoor).
- (3) Except as otherwise provided by this Policy, development is prohibited on land within the Special Purpose Zone—Community unless it may be carried out under subclause (2).

## **17 Exempt development**

The following development is exempt development if it is carried out on land within the Redfern–Waterloo Authority Sites, is of minimal environmental impact and complies with the criteria set out in the guidelines prepared by the Redfern–Waterloo Authority (and approved by the Minister and made publicly available) for the purposes of this clause:

- (a) the temporary use of the land for community events that are open to the general public, including public gatherings, ceremonies, sporting events or outdoor exhibitions,
- (b) the erection and use of temporary structures, having minimal visual impact, for the purposes of, or in connection with, any such community event,
- (c) the erection and use of outdoor seating, tables and similar furniture located in the public domain and associated with cafes, restaurants, bars and other similar development,
- (d) the erection, installation, maintenance and upgrading by or on behalf of a public authority of public furniture, planter boxes, lighting, public art, street signs, bus shelters, public telephone booths or post boxes, or the carrying out by or on behalf of a public authority of street planting, work for the purpose of changing the width or surface of a footpath, and related road works,
- (e) the erection, installation, maintenance and upgrading by or on behalf of a public authority in existing public recreation areas of public furniture, shade structures, public art, tables, seats, children’s play equipment, barbecues and toilets,
- (e1) the carrying out, by or on behalf of a public authority, of landscaping associated with existing public recreation areas,
- (f) development for the purposes of real estate signs,
- (g) the erection of a flagpole, if the maximum height of the flagpole is not more than 6 metres above existing ground level,
- (h) erection of a side or rear boundary fence located behind the front wall of a building, if the fence does not exceed 1.8 metres in height and is not of masonry construction,
- (i) the use of premises for a home business,
- (j) minor internal alterations to commercial or retail premises, such as fit-out works or the installation of partitions, shelving, benches or workstations, if the alterations are not structural, do not result in the creation of additional floor space and do not change the building classification.

## **18 Unzoned land**

- (1) This clause applies to land within the Redfern–Waterloo Authority sites that is not within a zone specified in clause 7.
- (2) Except as provided by this clause, development is prohibited on land to which this clause applies.
- (3) Development for the purposes of public utility undertakings to which clause 19 (1) applies may be carried out on land to which this clause applies without development consent.
- (4) Development referred to in clause 30 may be carried out on land to which this clause applies with development consent.

## **19 Public utility undertakings excepted**

- (1) Development for the purposes of public utility undertakings that is carried out on land within the Redfern–Waterloo Authority Sites does not require development consent.
- (2) Subclause (1) does not apply to development referred to in clause 15 (2) (a) or (c).

### **Note—**

As a consequence of the removal of the requirement for development consent under Part 4 of the Act, development for the purposes of public utility undertakings is subject to the environmental assessment and approval requirements of Part 5 of the Act or, if it is applicable, Part 3A of the Act.

## **20 Subdivision—consent requirements**

- (1) Land within the Redfern–Waterloo Authority Sites may be subdivided, but only with consent.
- (2) However, 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) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
  - (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
  - (d) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
  - (e) rectifying an encroachment on a lot,
  - (f) creating a public reserve,



(g) 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 conveniences.

(3) Despite subclause (1), consent is not required for subdivision under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*, except:

(a) in the case of a building to which *State Environmental Planning Policy No 10—Retention of Low-Cost Rental Accommodation* applies, or

(b) where the building has been designed or approved for occupation as a single unit.

## **21 Height and floor space ratio restrictions**

(1) The height of a building on any land that is the subject of the Height of Buildings Map is not to exceed the maximum height shown for the land on that map.

(2) The floor space ratio of a building on any land that is the subject of the Floor Space Ratio Map is not to exceed the floor space ratio shown for the land on that map.

(3) This clause applies only in relation to development where the Minister has not, in an approval for a concept plan for the development (whether given before or after the commencement of this clause), provided for the construction of a building that exceeds the height or floor space ratio restrictions, or both, set out in subclauses (1) and (2).

## **22 Design excellence**

(1) Consent must not be granted to a new building or to external alterations to an existing building unless the consent authority has considered whether the proposed development exhibits design excellence.

(2) In considering whether proposed development exhibits design excellence, the consent authority must have regard to the following matters:

(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 building will improve the quality and amenity of the public domain,

(c) whether the building meets sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resource, energy and water efficiency,

(d) if a competition is held as referred to in subclause (3) in relation to the development, the results of the competition.

- (3) The consent authority may require a design competition for any development over 12 storeys consistent with guidelines issued by the Redfern–Waterloo Authority and approved by the Minister.
- (4) The Redfern–Waterloo Authority may draft a guideline to be approved by the Minister detailing what matters are to be addressed for design excellence and for the conduct of design competitions.

### **23 Car parks**

- (1) Development for the purpose of car parks is permissible with consent on land within the Business Zone—Business Park and identified as site H on the Floor Space Ratio Map.
- (2) Consent may not be granted as referred to in subclause (1) unless the consent authority is satisfied that the number of car parking spaces in the Business Zone—Business Park will not, as a result of the granting of consent, exceed 1,600 car spaces.

### **24 Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land within any zone to be carried out in accordance with this Policy 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) Nothing in subclause (1) affects the rights or interests of any public authority under any registered instrument.
- (3) Pursuant to section 28 of the Act, before the making of this clause, the Governor approved of subclauses (1) and (2).

## **Division 4 Additional provisions for the Redfern–Waterloo Authority Sites not applying to Part 3A projects**

### **25 Development to which Division applies**

The provisions of this Division do not apply with respect to development on land within the Redfern–Waterloo Authority Sites that is a project to which Part 3A of the Act applies.

### **26 Notification of advertised development**

Subject to the Act and the regulations, notice of a development application for consent to carry out development on land within the Redfern–Waterloo Authority Sites is to be given in accordance with the provisions of any applicable development control plan.

## 27 Heritage conservation

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item:
  - (a) demolish, dismantle, move or alter the building, work, relic, tree or place, or
  - (b) damage or remove the relic, or
  - (c) excavate land for the purpose of discovering, exposing or moving the relic, or
  - (d) damage or despoil the tree or place, or
  - (e) erect a building on, or subdivide, land on which the building, work or relic is situated or that comprises the place, or
  - (f) damage any tree or land on which the building, work or relic is situated on or on the land which comprises the place, or
  - (g) make structural changes to the interior of the building or work,except with the consent of the consent authority.
- (2) However, consent under this clause is not required if 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:
  - (a) is of a minor nature, or is for the maintenance of the heritage item, and
  - (b) would not adversely affect the significance of the heritage item.
- (3) In this clause, **heritage item** means a building, work, relic, tree or place that is indicated as a heritage item on the Heritage Map.

## 28 Preservation of trees or vegetation

- (1) The objective of this clause is to preserve the amenity of the Redfern–Waterloo Authority Sites through the preservation of trees and other vegetation.
- (2) This clause applies to species or kinds of trees or other vegetation that are identified for the purposes of this clause by a development control plan adopted by the consent authority.

### 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 consent authority.

- (4) The refusal by the consent authority 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 consent authority to grant consent for the carrying out of the activity for which a permit was sought.
- (5) This clause does not apply to a tree or other vegetation that the consent authority 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 consent authority 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 that is or forms part of a heritage item (within the meaning of clause 27).

**Note—**

As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 27 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 a routine agricultural management activity within the meaning of that Act carried out on land to which that Act applies, 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 Act 2002*, or
  - (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

## **29 Community use of educational establishments**

- (1) The objective of this clause is to allow the use of educational establishments, including their site and facilities, for other community purposes.

- (2) An educational establishment (including the site and facilities) may, with consent, be used for any other community purpose, whether or not any such use is a commercial use of the land.
- (3) Nothing in this clause requires consent to carry out development on any land if that development could, but for this clause, be carried out on that land without consent.

### 30 Temporary use of land

The consent authority may grant consent to the carrying out, on land within the Redfern–Waterloo Authority Sites, of development (other than designated development) for any purpose for a maximum period of 28 days, whether consecutive or non-consecutive, in any one year.

## Part 6 Kings Forest site

### 1 Definitions

In this Part:

**agricultural buffer** means an area within the Kings Forest site indicated by distinctive marking as “Agricultural Buffer—150m” on the Zoning Map.

**ecological buffer** means an area within the Kings Forest site indicated by distinctive marking as “Ecological Buffer—50m” on the Zoning Map.

**Kings Forest site** means the land at Kings Forest as shown edged heavy black on Map 4 to this Schedule.

**native vegetation** has the same meaning as in the [Native Vegetation Act 2003](#).

**Zoning Map** means the map marked “*State Environmental Planning Policy (Major Projects) 2005 (Amendment No 10)—Kings Forest—Zoning Map*”.

### 2 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 from time to time by maps declared by environmental planning instruments to amend 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.

### **3 Application of Part**

- (1) Subject to subclauses (2) and (3), this Part applies with respect to development within the Kings Forest site and so applies whether or not the development is a project to which Part 3A of the Act applies.
- (2) This Part does not apply to the land comprising Lot 19, DP 112061 unless and until that land has been vacant for one continuous period of 12 months, being a period that commences on or after the commencement of this Part.
- (3) Nothing in this Part applies to or with respect to development for the purposes of a public utility undertaking.

**Note—**

Development for the purposes of a public utility undertaking may, by operation of another Schedule to this Policy, be a project to which Part 3A of the Act applies.

### **4 Land use zones and objectives**

- (1) For the purposes of this Policy, land within the Kings Forest site is in a zone specified below if the land is shown on the Zoning Map as being within that zone:
  - (a) Zone 2 (c) Urban Expansion,
  - (b) Zone 5 (a) Special Uses,
  - (c) Zone 7 (a) Environmental Protection (Wetlands and Littoral Rainforests),
  - (d) Zone 7 (l) Environmental Protection (Habitat).
- (2) Subject to the other provisions of this Part, the provisions of *Tweed Local Environmental Plan 2000*, as in force at the commencement of this clause, apply to land within a zone in the same way as they apply to land within a zone of the same name under that Plan and so apply as if those provisions were provisions of this Policy.
- (3) The consent authority must have regard to the objectives for development in a zone within the Kings Forest site when determining a development application in respect of land within that zone.

### **5 Zone 2 (c)**

- (1) **Subdivision** Subdivision of land within Zone 2 (c) is permitted with consent regardless of the size of each allotment to be created by the subdivision.
- (2) **Dwelling houses** Development for the purposes of a dwelling house is permitted with consent on land within Zone 2 (c) regardless of the size of the allotment on which the

house is to be located.

## 6 Zones 7 (a) and 7 (l)

- (1) **Subdivision that is permitted** Subdivision of land within Zone 7 (a) or 7 (l) is permitted with consent if the subdivision is for one or more of the following purposes:
  - (a) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
  - (b) a minor realignment of boundaries to reflect the zone boundaries, being a realignment that does not involve the creation of a greater number of lots.
- (2) **Other subdivision** Subdivision of land within Zone 7 (a) or 7 (l) for any other purpose is prohibited.
- (3) **Temporary development** The consent authority must not consent to development on land within Zone 7 (a) or 7 (l) for which consent may be granted under *Tweed Local Environmental Plan 2000* only because the development is carried out for not more than 14 days, whether consecutive or not, in any one year.
- (4) **Dwelling houses** Development for the purposes of a dwelling house is prohibited on land within Zone 7 (l).
- (5) **Earthworks** Development for the purposes of earthworks is permitted with consent on land within Zone 7 (l), but only if the applicant for consent has demonstrated to the consent authority's satisfaction that:
  - (a) the development is necessary for any one of the following reasons:
    - (i) it needs to be in the locality in which it is proposed to be carried out due to the nature, function or service catchment of the development,
    - (ii) it meets an identified urgent community need,
    - (iii) it comprises a major employment generator, and
  - (b) there is no other appropriate site on which the development is permitted with consent (other than as advertised development) in reasonable proximity, and
  - (c) the development is generally consistent with the scale and character of existing and future lawful development in the immediate area, and
  - (d) the development is consistent with the aims of *Tweed Local Environmental Plan 2000* (to the extent that those aims are consistent with this Policy) and at least one of the objectives of Zone 7 (l).

## **7 Ecological buffers**

- (1) Consent must not be granted to development on land within an ecological buffer unless the consent authority is satisfied, after considering a detailed environmental assessment, that:
  - (a) the development complies with the objectives for ecological buffers and other provisions of this clause, and
  - (b) there is no practicable alternative to siting the development within the buffer.
- (2) The objectives for ecological buffers are:
  - (a) to protect wetlands or areas of particular habitat significance, and
  - (b) to restrict development so that, as far as practicable, it does not occur within ecological buffers, and
  - (c) to help ensure that development is designed, sited and managed so as to minimise its impact on the ecological and hydrological functions of ecological buffers, and
  - (d) to encourage the restoration and maintenance of native vegetation and the ecological processes of land within and adjacent to wetlands or areas of particular habitat significance.
- (3) Development on land within an ecological buffer is to:
  - (a) incorporate effective measures to manage wetlands or areas of particular habitat significance, and
  - (b) be designed and sited to maintain connectivity of vegetation and minimise vegetation clearing, soil disturbance and alterations to the rate, volume or quality of surface and ground-water flows, and
  - (c) retain and maintain all existing native vegetation outside the area immediately required for the development, and
  - (d) incorporate measures to regenerate native vegetation for all disturbed areas within the buffer, and
  - (e) incorporate appropriate stormwater and erosion control measures to protect the buffer from surface water run-off or other disturbance.
- (4) When considering whether or not there is a practicable alternative to siting development inside an ecological buffer, the consent authority must consider:
  - (a) the design, type and site cover of the proposed development, and



(b) the physical characteristics of the land on which the development is proposed to be carried out, and

(c) the suitability of the land for the proposed development.

(5) Before deciding whether or not to grant consent to development on land within an ecological buffer, the consent authority must consult the Department.

## **8 Agricultural buffers**

Consent must not be granted to development on land within an agricultural buffer unless the consent authority:

(a) has considered the potential impact of the proposed development on agricultural activities on land adjoining the buffer and of those agricultural activities on future occupiers of land within the buffer, and

(b) has consulted the Department of Primary Industries.

## **9 Complying development**

For the purposes of determining whether development within the Kings Forest site is complying development, the provisions in *Tweed Development Control Plan No 40* (as adopted by Tweed Shire Council on 6 October 2004) relating to single dwelling houses, or to development ancillary to single dwelling houses, are taken not to apply to the Kings Forest site.

## **10 Relationship with other environmental planning instruments**

The only environmental planning instruments that apply, according to their terms, to or in respect of development within the Kings Forest site are as follows:

(a) in the case of development that is a project to which Part 3A of the Act applies—this Policy and all other State environmental planning policies otherwise applicable to the land, except *State Environmental Planning Policy No 1—Development Standards*,

(b) in the case of all other development—all environmental planning instruments otherwise applicable to the land, except *State Environmental Planning Policy No 1—Development Standards*, but only to the extent that those instruments are not inconsistent with this Policy.

## **Part 7 The Dan Land**

### **The Dan Land**

The Dan Land is land at 290 and 302 Minmi Road, Fletcher (Lot 11, DP 1044935 and Lot 2, DP 534168) in the local government area of Newcastle, as shown edged heavy black on Map 5 to this Schedule.

**Note—**

Development on the Dan Land that is not a project to which Part 3A of the Act applies is subject to the provisions of *Newcastle Local Environmental Plan 2003*, among other instruments.

## **Part 8 North Head Federal Police Training site**

### **Division 1 Preliminary**

#### **1 Land to which Part applies**

This Part applies to the land shown edged heavy black on Map 6 to this Schedule referred to in this Schedule as the **North Head Federal Police Training site**.

#### **2 Interpretation**

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 Relationship with other environmental planning instruments**

- (1) Except as provided by this Policy, all other environmental planning instruments apply, according to their terms, to the North Head Federal Police Training site.
- (2) Division 3 applies to the North Head Federal Police Training site despite any provision of *Manly Local Environmental Plan 1988* or any other local environmental plan applying to that site.

### **Division 2 Part 3A projects**

#### **4 Part 3A projects**

Such development within the North Head Federal Police Training site as has a capital investment value of more than \$5 million (other than a public utility undertaking).

### **Division 3 Provisions applying to development within North Head Federal Police Training site**

#### **5 Application of Division**

This Division applies with respect to any development within the North Head Federal Police Training site and so applies whether or not the development is a project to which Part 3A of the Act applies.

#### **6 Development controls in relation to North Head Federal Police Training site**

- (1) Development for the purpose of a police training facility and any ancillary development may be carried out with consent on land within the North Head Federal Police Training site.

- (2) Development for the purpose of a public utility undertaking may be carried out without consent on land within the North Head Federal Police Training site.

## **7 Exempt development**

The following development is exempt development if it is carried out on land within the North Head Federal Police Training site and is of minimal environmental impact:

- (a) aerials, antennae, satellite dishes and other communications facilities,
- (b) air conditioning,
- (c) awnings, canopies, blinds,
- (d) decks and patios,
- (e) environmental protection works,
- (f) fences and retaining walls,
- (g) landscaping, pergolas, outdoor furniture and flagpoles,
- (h) minor external maintenance and renovation such as re-cladding of roofs and walls,
- (i) minor internal alterations and additions,
- (j) security installations,
- (k) business identification signs,
- (l) stormwater drainage,
- (m) the temporary use of land for special events, but only if the use of land is carried out for no longer than 3 consecutive days for each special event,
- (n) walking bridges, steps and ramps, including access ramps for the physically disadvantaged,
- (o) water tanks and water heaters, including solar water heaters.

## **Part 9 Huntingwood West Precinct**

### **Division 1 Preliminary**

#### **1 Land to which Part applies**

This Part applies to the land identified on Map 7 to this Schedule, referred to in this Schedule as the ***Huntingwood West Precinct***.

## **2 Interpretation**

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.

## **Division 2 Part 3A projects**

### **3 Part 3A projects**

Subdivision of land within the Huntingwood West Precinct, other than a strata title subdivision, a community title subdivision, or a subdivision for any one or more of the following purposes:

- (a) widening a public road,
- (b) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
- (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
- (d) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
- (e) rectifying an encroachment on a lot,
- (f) creating a public reserve,
- (g) 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 conveniences.

## **Division 3 Provisions relating to development within Huntingwood West Precinct**

### **4 Application of Division**

This Division applies with respect to development within the Huntingwood West Precinct and so applies whether or not the development is a project to which Part 3A of the Act applies.

### **5 Land use zones**

- (1) Land within the Huntingwood West Precinct is within Zone IN1 General Industrial.
- (2) The consent authority must take into consideration each of the objectives for development in Zone IN1 General Industrial when determining a development application in respect of land within that zone.

## **6 Zone IN1 General Industrial**

- (1) The objectives of Zone IN1 General Industrial are as follows:
  - (a) to facilitate development for a wide range of employment-generating industrial, manufacturing, warehousing, storage or research purposes, including ancillary office space,
  - (b) to ensure development enhances the amenity of the Huntingwood West Precinct by including high quality landscaping, adequate building setbacks, high quality external finishes and the like,
  - (c) to encourage employment opportunities,
  - (d) to minimise any adverse effect of industry on other land uses.
- (2) Development for the purpose of environmental protection works is permitted without development consent on land within Zone IN1 General Industrial.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone IN1 General Industrial:

automotive and motor sport industry related uses; depots; freight transport facilities; light industries; neighbourhood shops; roads; transport depots; truck depots; warehouse or distribution centres.
- (4) Except as otherwise provided by this Policy, development is prohibited on land within Zone IN1 General Industrial unless it is permitted by subclause (2) or (3).

## **7 Public utility undertakings excepted**

Development for the purpose of a public utility undertaking that is carried out on land within the Huntingwood West Precinct does not require development consent.

### **Note—**

As a consequence of the removal of the requirement for development consent under Part 4 of the Act, development for the purposes of public utility undertakings is subject to the environmental assessment and approval requirements of Part 5 of the Act or, if it is applicable, Part 3A of the Act.

## **8 Child care centres**

- (1) Despite any other provision of this Policy, a person may, with development consent, carry out development for the purposes of a child care centre on land within the Huntingwood West Precinct.
- (2) The consent authority may grant development consent as referred to in subclause (1) only if it is satisfied that the child care centre is intended to provide services to people working in the area in which the child care centre is located.

## **9 Additional permitted uses**

Despite any other provision of this Policy, a person may, with development consent, carry out development for the following purposes on the following land:

- (a) a tyre repair station on Lot 100, DP 1030393,
- (b) a service station on Lot 101, DP 1030393.

## **10 Subdivision—consent requirements**

- (1) Land within the Huntingwood West Precinct 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) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
  - (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
  - (d) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
  - (e) rectifying an encroachment on a lot,
  - (f) creating a public reserve,
  - (g) 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 conveniences.

## **11 Design**

The consent authority must not grant consent to development on land within the Huntingwood West Precinct unless it is satisfied that:

- (a) the development is of a high quality design, and
- (b) a variety of materials and external finishes for the external facades are incorporated, and
- (c) high quality landscaping is provided, and
- (d) the scale and character of the development is compatible with other employment-generating development in the Huntingwood West Precinct.

## **12 Height of buildings**

The consent authority must not grant consent to development on land within the Huntingwood West Precinct unless it is satisfied that building heights will not adversely impact on the amenity of adjacent residential areas, taking site topography into consideration.

## **13 Public utility infrastructure**

- (1) The consent authority must not grant consent to development on land within the Huntingwood West Precinct unless it 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) In this clause, **public utility infrastructure** includes infrastructure for any of the following:
  - (a) the supply of water,
  - (b) the supply of electricity,
  - (c) the supply of natural gas,
  - (d) the disposal and management of sewage.
- (3) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure referred to in this clause.

## **Division 4 Miscellaneous**

### **14 Relationship with other environmental planning instruments**

- (1) This Policy and all other State environmental planning policies apply, according to their terms, to land within the Huntingwood West Precinct.
- (2) [Blacktown Local Environmental Plan 1988](#) does not apply to land within the Huntingwood West Precinct.

### **15 Consent authority**

The consent authority for development on land within the Huntingwood West Precinct, other than development that is a project to which Part 3A of the Act applies, is Blacktown City Council.

### **16 Exempt and complying development**

Development within the Huntingwood West Precinct that satisfies the requirements for exempt development or complying development contained in [Blacktown Local](#)

[Environmental Plan 1988](#) is exempt development or complying development, as appropriate.

## **17 Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land within any zone to be carried out in accordance with this Policy or with a consent granted under the Act, any agreement, covenant or similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) Nothing in subclause (1) affects the rights or interests of any public authority under any registered instrument.
- (3) Pursuant to section 28 of the Act, before the making of this clause, the Governor approved of subclauses (1) and (2).

## **18 Savings provision**

- (1) In this clause, **relevant order** means the order made under section 75B (1) of the Act and published in Gazette No 117 of 15 September 2006 at page 8077.
- (2) Anything done under Part 3A of the Act in reliance on the declaration of development as a project to which Part 3A of the Act applies by the relevant order is not affected by the repeal of that order.
- (3) Subclause (2) has effect only to the extent that the development referred to in that subclause is development referred to in clause 3 of Division 2 of this Part.

# **Part 10 Tomago Industrial site**

## **Division 1 Preliminary**

### **1 Land to which Part applies**

This Part applies to the land shown edged heavy black on Map 8 to this Schedule referred to in this Schedule as the **Tomago Industrial site**.

### **2 Interpretation**

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**

For the purposes of this Part:

- (a) the consent authority for development on land within that part of the Tomago Industrial site that is within Newcastle local government area is the Council of the City



of Newcastle, and

- (b) the consent authority for development on land within that part of the Tomago Industrial site that is within Port Stephens local government area is the Council of Port Stephens.

#### **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 from time to time by maps declared by environmental planning instruments to amend 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.

### **Division 2 Part 3A projects**

#### **5 Part 3A projects**

- (1) Such development within the Tomago Industrial site as has a capital investment value of more than \$5 million, other than development for the purposes of a public utility undertaking.
- (2) Subdivision of land within the Tomago Industrial site, other than a strata title subdivision, a community title subdivision, or a subdivision for any one or more of the following purposes:
  - (a) widening a public road,
  - (b) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
  - (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
  - (d) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
  - (e) rectifying an encroachment on a lot,

- (f) creating a public reserve,
- (g) 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 conveniences.

### **Division 3 Provisions applying to development within Tomago Industrial site**

#### **6 Application of Division**

This Division applies with respect to any development within the Tomago Industrial site and so applies whether or not the development is a project to which Part 3A of the Act applies.

#### **7 Land use zones**

- (1) For the purposes of this Policy, land within the Tomago Industrial site is in a zone as follows if the land is shown on the map marked "*State Environmental Planning Policy (Major Projects) 2005 (Amendment No 15)—Zoning Map*" as being within that zone:
  - (a) Zone IN1 General Industrial,
  - (b) Zone SP2 Infrastructure,
  - (c) Zone E2 Environmental Conservation.
- (2) 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.

#### **8 Zone IN1 General Industrial**

- (1) The objectives of Zone IN1 General Industrial are as follows:
  - (a) to provide for a wide range of industrial, warehouse and related land uses,
  - (b) to provide suitable areas for those industries that need to be separated from other land uses,
  - (c) to encourage employment opportunities,
  - (d) to minimise any adverse effect of industry on other land uses and the environment,
  - (e) to enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- (2) Development for any of the following purposes is permitted without consent within Zone IN1 General Industrial:

environmental protection works.

- (3) Development for any of the following purposes is permitted with consent within Zone IN1 General Industrial:

aquaculture; boat construction facilities; boat repair facilities; boat launching ramps; commercial port facilities; depots; drainage; earthworks; educational establishments; fill; freight transport facilities; hazardous industries; hazardous storage establishments; heavy industries; jetties; light industries; marinas; materials recycling or recovery centres; offensive industries; offensive storage establishments; office premises; signage; truck depots; vehicle body repair workshops; vehicle repair stations; warehouses or distribution centres; waste management facilities.

- (4) Except as otherwise provided by this Policy, development is prohibited within Zone IN1 General Industrial unless it is permitted by subclause (2) or (3).

## **9 Zone SP2 Infrastructure**

- (1) The objectives of Zone SP2 Infrastructure are as follows:

- (a) to provide for infrastructure and related land uses,
- (b) to prevent development that is not compatible with or that may detract from the provision of infrastructure,
- (c) to minimise any adverse effect of infrastructure on other land uses and the environment.

- (2) Development for any of the following purposes is permitted without consent within Zone SP2 Infrastructure:

environmental protection works.

- (3) Development for any of the following purposes is permitted with consent within Zone SP2 Infrastructure:

infrastructure (including railways, roads, conveyors, electricity transmission and distribution lines, gas pipelines, water pipelines, stormwater systems, flood management facilities, sewerage systems and telecommunications facilities), except if it is for the purposes of a public utility undertaking and is carried out by or on behalf of a public authority.

- (4) Except as otherwise provided by this Policy, development is prohibited within Zone SP2 Infrastructure unless it is permitted by subclause (2) or (3).

## **10 Zone E2 Environmental Conservation**

- (1) The objectives of Zone E2 Environmental Conservation are as follows:

- (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
  - (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- (2) Development for any of the following purposes is permitted without consent within Zone E2 Environmental Conservation:
- environmental protection works.
- (3) Development for any of the following purposes is permitted with consent within Zone E2 Environmental Conservation:
- information and education facility.
- (4) Except as otherwise provided by this Policy, development is prohibited within Zone E2 Environmental Conservation unless it is permitted by subclause (2) or (3).

#### **11 Public utility undertakings**

- (1) Development for the purposes of public utility undertakings that is carried out on land within the Tomago Industrial site does not require development consent.
- (2) Subclause (1) does not apply to development for which development consent is required by clause 9 (3).

#### **12 Subdivision—consent requirements**

- (1) Land within the Tomago Industrial site may be subdivided, but only with consent.
- (2) However, 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) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
  - (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
  - (d) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
  - (e) rectifying an encroachment on a lot,
  - (f) creating a public reserve,
  - (g) 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 conveniences.

## **Division 4 Miscellaneous**

### **13 Relationship with other environmental planning instruments**

The only environmental planning instruments that apply, according to their terms, to the Tomago Industrial site are all other State environmental planning policies.

### **14 Notice of development applications to be given to councils**

The Director-General, in respect of an application to carry out development within the Tomago Industrial site that is a project to which Part 3A of the Act applies, must forward a copy of the application:

- (a) to the Port Stephens Council if the development, or any part of it, is proposed to be carried out in that council's area, or
- (b) to the Newcastle City Council, if the development, or any part of it, is proposed to be carried out in that council's area,

or to both councils, as the case may require.

### **15 Exempt and complying development**

Development within the Tomago Industrial site that satisfies the requirements for exempt development or complying development specified in Port Stephens Council's *Development Control Plan PS8—Guidelines for Exempt and Complying Development*, adopted by the Port Stephens Council on 24 February 2003 and as in force at the commencement of this clause, is exempt development or complying development, as appropriate.

### **16 Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land within the Tomago Industrial site to be carried out in accordance with this Policy 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) Nothing in subclause (1) affects the rights or interests of any public authority under any registered instrument.
- (3) Pursuant to section 28 of the Act, before the making of this clause, the Governor approved of subclauses (1) and (2).

## **Part 11 Caritas site**

### **Division 1 Preliminary**

#### **1 Land to which Part applies**

This Part applies to the land identified on Map 9 to this Schedule, referred to in this Schedule as the **Caritas site**.

#### **2 Interpretation**

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 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 from time to time by maps declared by environmental planning instruments to amend 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.

### **Division 2 Provisions relating to development within Caritas site**

#### **4 Application of Division**

This Division applies with respect to development on land within the Caritas site.

#### **5 Land use zone**

- (1) Land within the Caritas site is within Zone B4 Mixed Use.
- (2) The consent authority must have regard to the objectives of Zone B4 Mixed Use when determining a development application in respect of land within that zone.

#### **6 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 maximise public transport patronage and encourage walking and cycling,
- (c) to incorporate contemporary urban design principles in the design of new buildings and the interpretation of their relationship with the public domain and heritage buildings,
- (d) to facilitate the conservation and adaptive reuse of items and areas of heritage significance,
- (e) to promote mixed use planning by locating mutually supportive and compatible uses such as residential uses, places of employment and retail uses in close proximity to each other so as to minimise the need for travel by car.

(2) Except as otherwise provided by this Division, development may be carried out with consent on land within Zone B4 Mixed Use.

#### **7 Exempt and complying development**

Development on land within the Caritas site that satisfies the requirements for exempt development or complying development specified in *South Sydney Development Control Plan 1999—Exempt and Complying Development* (as in force on 1 August 2000) is exempt development or complying development, as appropriate.

#### **8 Public utility undertakings excepted**

Development for the purpose of a public utility undertaking that is carried out on land within the Caritas site does not require consent.

**Note—**

As a consequence of the removal of the requirement for development consent under Part 4 of the Act, development for the purposes of public utility undertakings is subject to the environmental assessment and approval requirements of Part 5 of the Act.

#### **9 Subdivision—consent requirements**

- (1) Land within the Caritas site may be subdivided, but only with consent.
- (2) However, 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) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
  - (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,

- (d) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
- (e) rectifying an encroachment on a lot,
- (f) creating a public reserve,
- (g) 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 conveniences.

#### **10 Height of buildings**

- (1) Except as provided by subclause (2), the height of a building on any land within the Caritas site is not to exceed the maximum number of storeys shown for the land on the map marked "*State Environmental Planning Policy (Major Projects) 2005 (Amendment No 17)—Caritas Site Building Height Map*" (the **Caritas Site Building Height Map**).
- (2) If the Caritas Site Building Height Map specifies, in relation to any land shown on that map, a Reduced Level for any building on that land, any such building is not to exceed the specified RL.

#### **11 Floor space ratio**

The floor space ratio of a building on the Caritas site is not to exceed 2.75:1.

#### **12 Gross floor area restrictions**

- (1) The maximum gross floor area of all buildings on the Caritas site is not to exceed 12,315 square metres.
- (2) Consent must not be granted for:
  - (a) the erection of a new building, or
  - (b) a change of use of an existing building,if it would result in the total gross floor area of business premises and retail premises on the Caritas site being less than 10% of the maximum gross floor area permitted by subclause (1).

#### **13 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 total floor space 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 Policy 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.
- (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 Caritas 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](#).

#### 14 Heritage conservation

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item:
- (a) demolish, dismantle, move or alter the building, work, relic, tree or place, or
  - (b) damage or remove the relic, or
  - (c) excavate land for the purpose of discovering, exposing or moving the relic, or
  - (d) damage or despoil the tree or place, or
  - (e) erect a building on, or subdivide, land on which the building, work or relic is situated or that comprises the place, or
  - (f) damage any tree or land on which the building, work or relic is situated or that comprises the place, or
  - (g) make structural changes to the interior of the building or work,
- except with the consent of the consent authority.

- (2) However, consent under this clause is not required if 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:
  - (a) is of a minor nature, or is for the maintenance of the heritage item, and
  - (b) would not adversely affect the significance of the heritage item.
- (3) In this clause, **heritage item** means a building, work, relic, tree or place that is indicated as a heritage item on the map marked “*State Environmental Planning Policy (Major Projects) 2005 (Amendment No 17)—Caritas Site Heritage Conservation Map*”.

## Division 3 Miscellaneous

### 15 Consent authority

The consent authority for development on land within the Caritas site is, subject to the Act, the Council of the City of Sydney.

### 16 Relationship with other environmental planning instruments

- (1) This Policy and all other State environmental planning policies (except [State Environmental Planning Policy No 1—Development Standards](#)) apply, according to their terms, to the Caritas site.
- (2) [South Sydney Local Environmental Plan 1998](#) does not apply to the Caritas site.

### 17 Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land within the Caritas site to be carried out in accordance with this Part or with a consent granted under the Act, any agreement, covenant or similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) Nothing in subclause (1) affects the rights or interests of any public authority under any registered instrument.
- (3) Pursuant to section 28 of the Act, before the making of this clause, the Governor approved of subclauses (1) and (2).

## Part 12 Barangaroo site

### Division 1 Preliminary

#### 1 Land to which this Part Applies

This Part applies to the land identified on Map 10 to this Schedule referred to in this Schedule as the **Barangaroo site**.

## 2 Interpretation

(1) In this Part:

**Building Height Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 18)—Barangaroo Site Building Height Map*.

**Gross Floor Area Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 18)—Barangaroo Site Gross Floor Area Map*.

**Heritage Conservation Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 18)—Barangaroo Site Heritage Conservation Map*.

**heritage item** means a building, work, relic, tree or place that is shown as a heritage item on the Heritage Conservation Map.

**Zoning Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 18)—Barangaroo Site Zoning Map*.

(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 Relationship with other environmental planning instruments

The only environmental planning instruments that apply, according to their terms, to or in respect of development on land within the Barangaroo site are this Policy and all other State environmental planning policies except *State Environmental Planning Policy No 1—Development Standards*.

## 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 from time to time by maps declared by environmental planning instruments to amend 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.

## **Division 2 Part 3A projects**

### **5 Part 3A projects**

- (1) Such development within the Barangaroo site as has a capital investment value of more than \$5 million, other than development for the purpose of a public utility undertaking.
- (2) Subdivision of land within the Barangaroo site, other than a strata title subdivision, a community title subdivision, or a subdivision for any one or more of the following purposes:
  - (a) widening a public road,
  - (b) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
  - (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
  - (d) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
  - (e) rectifying an encroachment on a lot,
  - (f) creating a public reserve,
  - (g) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes or emergency service purposes or public conveniences.

#### **Note—**

Clause 1 (3) of Part 1 of Schedule 6 provides that the Minister is the consent authority for all development on the Barangaroo site that is development to which Part 4 of the Act applies.

## **Division 3 Provisions applying to development within Barangaroo site**

### **6 Application of Division**

This Division applies with respect to any development within the Barangaroo site and so applies whether or not the development is a project to which Part 3A of the Act applies.

### **7 Land use zones**

- (1) For the purposes of this Policy, land within the Barangaroo site is in a zone as follows if the land is shown on the Zoning Map as being within that zone:
  - (a) Zone B4 Mixed Use,

(b) Zone RE1 Public Recreation.

(2) 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.

## **8 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 development in accessible locations so as to maximise public transport patronage and encourage walking and cycling,
- (c) to encourage a diverse and compatible range of activities through various means, including the following:
  - (i) commercial and retail development,
  - (ii) cultural and entertainment facilities,
  - (iii) tourism, leisure and recreation facilities,
  - (iv) social, education and health services,
  - (v) higher density residential development,
- (d) to incorporate contemporary urban design principles in the design of new buildings and the interpretation of their relationship with the public domain,
- (e) to implement the principles of energy efficiency, travel demand management and other sustainable development practices as part of the development assessment process,
- (f) to facilitate the conservation of heritage items,
- (g) to ensure that the nuisance generated by non-residential development, such as that related to operating hours, noise, loss of privacy, vehicular and pedestrian traffic or other factors, is controlled so as to preserve the quality of life for residents in the area.

(2) Except as otherwise provided by this Policy, development for any purpose may be carried out with consent on land within Zone B4 Mixed Use unless prohibited by subclause (3).

(3) Development for any of the following purposes is prohibited on land within Zone B4 Mixed Use:

bulky goods premises; caravan parks; dual occupancies; dwelling houses;  
extractive industries; hazardous industries; hazardous storage establishments;

heavy industries; industries; light industries; materials recycling or recovery centres; mines; moveable dwellings; offensive industries; offensive storage establishments; restricted premises; sex services premises; truck depots; warehouse or distribution centres.

## 9 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 ensure the vitality and safety of the community and public domain,
- (e) to promote and maintain public access to and along the foreshore,
- (f) to allow land beneath the finished surface of the public domain to be used for car parking associated with development on land within Zone B4 Mixed Use if it can be demonstrated that any such use will not detract from the primary use of the land for public open space or recreational purposes,
- (g) to allow the public domain to be enhanced by a variety of compatible land uses in a manner that contributes positively to, and does not dominate, the primary use of the land for public open space or recreational purposes,
- (h) to allow land to be used in conjunction with the transportation of passengers by water.

(2) Development for any of the following purposes may be carried out with consent on land within Zone RE1 Public Recreation:

charter and tourism boating facilities; community facilities; earth works; entertainment facilities; environmental facilities; environmental protection works; food and drink premises; function centres; information and education facilities; jetties; kiosks; markets; passenger transport facilities; public entertainment; public halls; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); roads; telecommunications facilities; telecommunications networks; temporary structures; transport depots; underground car parks.

(3) Except as otherwise provided by this Policy, development is prohibited on land within Zone RE1 Public Recreation unless it is permitted by subclause (2).

(4) For the purposes of subclause (2), **kiosk** means retail premises with a gross floor area not exceeding 80 square metres and that provides food, light refreshments and other

small convenience items such as newspapers, films and the like.

#### **10 Additional permitted uses**

Despite any other provision of this Policy, development for the following purposes on the following land may be carried out with development consent:

- (a) a harbour control operations tower on Lot 4, DP 876514,
- (b) a port safety operations facility on Lot 2, DP 876514.

#### **11 Exempt and complying development**

Development within the Barangaroo site that satisfies the requirements for exempt development or complying development specified in *Central Sydney Development Control Plan 1996*, as in force on 9 February 2007, is exempt development or complying development, as appropriate.

#### **12 Demolition within Zone RE1 Public Recreation**

Development for the purposes of demolition may be carried out with consent on land within Zone RE1 Public Recreation.

#### **13 Advertising within Zone RE1 Public Recreation**

Development for the purposes of an advertisement may be carried out with consent on land within Zone RE1 Public Recreation if:

- (a) the advertisement is erected by, or on behalf of, a public authority, and
- (b) it is displayed on public street furniture, a bus shelter, a public telephone booth or a similar structure.

#### **14 Commercial port facilities**

- (1) Development for the purposes of a commercial port facility that has a capital investment value of \$5 million or less and is carried out on land within the Barangaroo site does not require development consent.

**Note—**

As a consequence of the removal of the requirement for development consent under Part 4 of the Act, development for the purposes of commercial port facilities having a capital investment value of \$5 million or less is subject to the environmental assessment and approval requirements of Part 5 of the Act.

- (2) Development for the purposes of a commercial port facility that has a capital investment value of more than \$5 million may only be carried out on the Barangaroo site with consent.

#### **15 Public utility undertakings**

- (1) Development for the purposes of public utility undertakings that is carried out on land



within the Barangaroo site does not require development consent.

**Note—**

As a consequence of the removal of the requirement for development consent under Part 4 of the Act, development for the purposes of public utility undertakings is subject to the environmental assessment and approval requirements of Part 5 of the Act or, if it is applicable, Part 3A of the Act.

(2) This clause does not apply to any development to which clause 14 applies.

**16 Subdivision—consent requirements**

(1) **Consent required for subdivision** Land within the Barangaroo site may be subdivided, but only with consent.

(2) **Consent not required for minor subdivision** However, 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) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
- (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
- (d) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
- (e) rectifying an encroachment on a lot,
- (f) creating a public reserve,
- (g) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes or emergency service purposes or public conveniences.

(3) **Strata subdivision** Subject to the other provisions of this Part, development consent may be granted to a subdivision of land under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986* only if the consent authority is satisfied that the subdivision will result in lots that:

- (a) if the subdivision is for the purpose of the erection of a building, are capable of accommodating a building that:
  - (i) complies with all relevant requirements of this Part, including those relating to maximum building height and gross floor area, design excellence and heritage conservation, and
  - (ii) is not an overdevelopment of the lot, and

- (iii) facilitates orderly and high quality development of the resultant lots, and
  - (b) provide an appropriate curtilage for any heritage item on the land that does not adversely affect the heritage significance of the item, and
  - (c) are compatible with the existing subdivision pattern of the locality.
- (4) Before granting consent for stratum subdivision of a building, the consent authority must consider whether the related building management statement or strata management statement adequately addresses the ongoing maintenance, upgrading, redevelopment and structural adequacy of the part of the building within each proposed stratum lot.
- (5) Before granting the subdivision certificate for strata subdivision of a new or refurbished building, the consent authority must be satisfied that any occupation certificate needed before the building is occupied has been issued.

#### **17 Height of buildings**

- (1) The height of any building on any block of land on the Barangaroo site is not to exceed the height for development on that block, expressed as Reduced Level (RL), as shown on the Building Height Map.
- (2) In this clause, **block of land** means the following:
- (a) an area of land shown edged in black and numbered "1", "2", "3", "4", "5", "6" or "7" on the Building Height Map,
  - (b) the combined areas of land shown edged in black and numbered "8" on that map.

#### **18 Gross floor area restrictions**

- (1) The total gross floor area of all buildings on any block of land on the Barangaroo site is not to exceed the gross floor area shown for that block on the Gross Floor Area Map.
- (2) Despite subclause (1), the total gross floor area of all buildings on a block of land numbered "2", "3" or "4" may exceed the gross floor area shown for that block on the Gross Floor Area Map if the total gross floor area of all buildings on those 3 blocks combined does not exceed 310,500 square metres (being the sum of the gross floor areas shown for those blocks on that map).
- (3) In this clause, **block of land** means the following:
- (a) an area of land shown edged in black and numbered "1", "2", "3", "4", "5", "6" or "7" on the Gross Floor Area Map,
  - (b) the combined areas of land shown edged in black and numbered "8" on that map.

## 19 Design excellence

- (1) Consent must not be granted to development involving the erection of a new building or external alterations to an existing building unless the consent authority has considered whether the proposed building exhibits design excellence.
- (2) In considering whether the proposed building exhibits design excellence, the consent authority must have regard to the following matters:
  - (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 building will improve the quality and amenity of the public domain,
  - (c) whether the building will meet sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resource, energy and water efficiency,
  - (d) if a design competition is required to be held in relation to the building, as referred to in subclause (3), the results of the competition.
- (3) Consent must not be granted to the following development unless a design competition has been held in relation to the proposed development:
  - (a) the erection of a new building that will be greater than Reduced Level (RL) 57,
  - (b) the erection of a new building on a site of greater than 1,500 square metres.
- (4) Subclause (3) does not apply if the Director-General:
  - (a) certifies in writing that the development is one for which an architectural design competition is not required because of the excellence of the proposed design for the development concerned, and
  - (b) is satisfied that:
    - (i) the architect responsible for the proposed design has an outstanding reputation in architecture, and
    - (ii) necessary arrangements have been made to ensure that the proposed design is carried through to the completion of the development concerned.
- (5) The Director-General may issue procedures setting out or dealing with the following:
  - (a) the conduct of design competitions,
  - (b) the establishment of design competition juries.
- (6) In the event a design competition is held, the consent authority must, before granting

consent, consider the advice of a design competition jury established in accordance with any procedures issued under this clause.

(7) In this clause:

***design competition*** means a competitive process conducted in accordance with procedures issued by the Director-General from time to time.

## **20 Exceptions to development standards**

(1) 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.

(2) 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.

(3) 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.

(4) 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 (3), 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.

(5) 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.
- (6) 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 (3).

## **21 Heritage conservation**

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item:
- (a) demolish, dismantle, move or alter the building, work, relic, tree or place, or
  - (b) damage or remove the relic, or
  - (c) excavate land for the purpose of discovering, exposing or moving the relic, or
  - (d) damage or despoil the tree or place, or
  - (e) erect a building on, or subdivide, land on which the building, work or relic is situated or that comprises the place, or
  - (f) damage any tree, or land on which the building, work or relic is situated, or the land that comprises the place, or
  - (g) make structural changes to the interior of the building or work,
- except with the consent of the consent authority.
- (2) However, consent under this clause is not required if the proponent of the development has notified the consent authority of the proposed development and the consent authority has advised the proponent in writing before any work is carried out that it is satisfied that the proposed development:
- (a) is of a minor nature, or is for the maintenance of the heritage item, and
  - (b) would not adversely affect the significance of the heritage item.

## Part 13 Illawarra Regional Business Park site

### Division 1 Preliminary

#### 1 Land to which Part applies

This Part applies to the land shown edged heavy black on the Land Application Map, referred to in this Schedule as the **Illawarra Regional Business Park site**.

#### 2 Interpretation

(1) In this Part:

**Airport Height Limitation Plan** means the plan titled *Airport Height Limitation and Noise Exposure Forecast Plan*, 17 April 1998, specifying the obstacle limitation surface for the land and held in the office of the Council.

**Council** means the Shellharbour City Council.

**Height of Buildings Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)—Illawarra Regional Business Park Site—Height of Buildings Map*.

**Land Application Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)—Illawarra Regional Business Park Site—Land Application Map*.

**Land Reservation Acquisition Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)—Illawarra Regional Business Park Site—Land Reservation Acquisition Map*.

**Land Zoning Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 28)—Illawarra Regional Business Park Site—Land Zoning Map*.

**wetland improvement** means the creation, enhancement, regeneration or maintenance of wetlands whether the wetland is natural or artificial and whether or not the wetland forms part of an integrated drainage system.

(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 in the Illawarra Regional Business Park site, other than development that is a project to which Part 3A of the Act applies, is the 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**

The only environmental planning instruments that apply, according to their terms, to land within the Illawarra Regional Business Park site are this Policy and all other State environmental planning policies, except [State Environmental Planning Policy No 1—Development Standards](#).

### **Division 2 Provisions applying to development within Illawarra Regional Business Park site**

#### **6 Application of Part**

This Part applies with respect to development within the Illawarra Regional Business Park site and so applies whether or not the development is a project to which Part 3A of the Act applies.

#### **7 Land use zones**

- (1) For the purposes of this Part, land within the Illawarra Regional Business Park site is in a zone as follows if the land is shown on the Land Zoning Map as being within that zone:
  - (a) Zone IN2 Light Industrial,
  - (b) Zone SP2 Infrastructure,
  - (c) Zone E2 Environmental Conservation.

- (2) 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.

## **8 Zone IN2 Light Industrial**

- (1) The objectives of Zone IN2 Light Industrial are as follows:
  - (a) to facilitate development for a wide range of employment generating light industrial purposes,
  - (b) to provide for airport related facilities and services, including hotel accommodation and passenger transport facilities,
  - (c) to provide for roads and service stations, warehouses and distribution centres and information and education facilities,
  - (d) to enable other land uses that provide facilities or services to meet the day to day needs of workers in the area,
  - (e) to minimise any adverse effect of industry on other land uses and the environment.
- (2) Development for the following purposes is permitted without development consent on land within Zone IN2 Light Industrial:

environmental protection works
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone IN2 Light Industrial:

airports; child care centres; depots; fill; flood mitigation works; food and drink premises; freight transport facilities; helipads; heliports; hotel or motel accommodation; industrial retail outlets; information and education facilities; landscape and garden supplies; light industries; liquid fuel depots; neighbourhood shops; office premises (that are ancillary to development for another permitted purpose); passenger transport facilities; public administration buildings; recreation facilities (indoor); roads; service stations; signage; timber and building supplies; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; vehicle sales or hire premises; veterinary hospitals; warehouse or distribution centres
- (4) Except as otherwise provided by this Policy, development is prohibited on land within Zone IN2 Light Industrial unless it is permitted by subclause (2) or (3).

## **9 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 protect the infrastructure of Illawarra Regional Airport.

(2) Development for the following purposes is permitted without development consent on land within Zone SP2 Infrastructure:

drainage; fencing; vegetation management

(3) Development for the following purposes is permitted only with development consent on land within Zone SP2 Infrastructure:

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 Policy, development is prohibited on land within Zone SP2 Infrastructure unless it is permitted by subclause (2) or (3).

#### **10 Zone E2 Environmental Conservation**

(1) The objectives of Zone E2 Environmental Conservation are as follows:

(a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,

(b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.

(2) Development for the following purposes is permitted without development consent on land within Zone E2 Environmental Conservation:

environmental protection works

(3) Development for the following purposes is permitted only with development consent on land within Zone E2 Environmental Conservation:

earthworks; environmental facilities; recreation areas; roads; wetland improvements

(4) Except as otherwise provided by this Policy, development is prohibited on land within Zone E2 Environmental Conservation unless it is permitted by subclause (2) or (3).

#### **11 Public utility undertakings excepted**

Development for the purpose of a public utility undertaking that is carried out on land within the Illawarra Regional Business Park site does not require development consent.

**Note—**

As a consequence of the removal of the requirement for development consent under Part 4 of the Act, development for the purposes of public utility undertakings is subject to the environmental assessment and

approval requirements of Part 5 of the Act or, if it is applicable, Part 3A of the Act.

## **12 Exempt and complying development**

Development within the Illawarra Regional Business Park site that satisfies the requirements for:

- (a) exempt development specified in *Shellharbour City Council Exempt Development Control Plan*, 4 May 2005, or
- (b) complying development specified in *Shellharbour City Council Complying Development Control Plan*, 4 May 2005,

as in force at the commencement of this Part, is exempt development or complying development, as appropriate.

## **13 Subdivision—consent requirements**

- (1) Land within the Illawarra Regional Business Park 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 buildings,
  - (c) a consolidation of lots that does not create additional lots or the opportunity for additional buildings,
  - (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.

## **14 Height of buildings**

- (1) The objectives of this clause are as follows:
  - (a) to regulate the height of buildings on land in the Illawarra Regional Business Park site,
  - (b) to ensure that the effective and on-going operation of Illawarra Regional Airport is not compromised by any development,

- (c) to protect the views to and from “Ravensthorpe” at 52–56 Tongarra Road, Albion Park, being a heritage item identified by *Shellharbour Rural Local Environmental Plan 2004*.
- (2) The height of a building on any land in the Illawarra Regional Business Park site is not to exceed the maximum height shown for the land on the:
  - (a) Height of Buildings Map, or
  - (b) Airport Height Limitation Plan,whichever is the lesser.
- (3) Despite subclause (2), development consent may be granted for development that exceeds the maximum height for the land if:
  - (a) the consent authority is satisfied that the proposed building is unlikely to adversely affect the views to and from “Ravensthorpe” as referred to in subclause (1) (c), and
  - (b) the consent authority is satisfied that the proposed building is unlikely to constitute an obstruction or hazard to aircraft flying in the vicinity, and
  - (c) if the proposed building does not comply with the Airport Height Limitation Plan, the Civil Aviation Safety Authority has been given notice of the proposal and any comments made by it to the consent authority within 28 days of its being notified have been taken into consideration by the consent authority.

## **15 Floor space ratio**

The floor space ratio of a building on any land in the Illawarra Regional Business Park site is not to exceed 1:1.

## **16 Exceptions to development standards**

- (1) 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.
- (2) 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.
- (3) 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.
- (4) Consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that:
- (a) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
  - (b) 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.
- (5) 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 (3).
- (6) This clause does not allow 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 \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated.

## **17 Controls relating to miscellaneous permissible uses**

- (1) **Industrial retail outlets** If development for the purposes of an industrial retail outlet is permitted on any land in the Illawarra Regional Business Park site, the retail floor area must not exceed:
- (a) 40% of the combined gross floor area of the industrial retail outlet and the building or place on which the relevant industry is carried out, or
  - (b) 400 square metres,
- whichever is the lesser.
- (2) **Neighbourhood shops** If development for the purposes of a neighbourhood shop is permitted on any land in the Illawarra Regional Business Park site, the retail floor area

must not exceed 80 square metres.

### 18 Controls relating to office premises

The consent authority must not grant development consent to development for the purpose of office premises on land in the Illawarra Regional Business Park site unless it is satisfied that:

- (a) the office premises are ancillary to another use of the land, and
- (b) the gross floor area of the office premises will not exceed 25% of the gross floor area of all of the buildings on the land.

### 19 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).

<b>Type of land shown on Land Reservation Acquisition Map</b>	<b>Authority of the State</b>
Zone SP2 Infrastructure and marked "Airport"	Council

- (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.

**Note—**

If land, other than land specified in the Table to subclause (2), is required to be acquired under the owner-initiated acquisition provisions, the Minister for Planning is required to take action to enable the designation of the acquiring authority under this clause. Pending the designation of the acquiring authority for that land, the acquiring authority is to be the authority determined by order of the Minister for Planning (see section 21 of the *Land Acquisition (Just Terms Compensation) Act 1991*).

## **20 Zone IN2 Light Industrial—satisfactory arrangements for the provision of regional transport infrastructure and services**

- (1) This clause applies to land in Zone IN2 Light Industrial within the Illawarra Regional Business Park site, but does not apply to any such land if the whole or any part of it is in a special contributions area (as defined by section 93C of the Act).
- (2) The object of this clause is to require assistance to authorities of the State towards the provision of designated State public infrastructure to satisfy needs that arise from development on land to which this clause applies.
- (3) Despite any other provision of this Part, the consent authority must not consent to the subdivision of land to which this clause applies unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to the land to which this clause applies.
- (4) Subclause (3) does not apply in relation to:
  - (a) any land that is reserved exclusively for a public purpose, or
  - (b) any development that is, in the opinion of the consent authority, of a minor nature.
- (5) In this clause, **designated State public infrastructure** means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds:
  - (a) State and regional roads,
  - (b) bus interchanges and bus lanes,
  - (c) rail infrastructure and land,
  - (d) land required for regional open space,
  - (e) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

## **21 Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land in the Illawarra Regional Business Park site to be carried out in accordance with this Policy or with a development 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 Council or that the 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*.
- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
- (4) Pursuant to section 28 of the Act, before the making of this clause, the Governor approved of subclauses (1)–(3).

## **Part 14 South Wallarah Peninsula site**

### **Division 1 Preliminary**

#### **1 Land to which Part applies**

This Part applies to the land shown edged heavy black on the map marked “*State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)—South Wallarah Peninsula Site—Land Application Map*”, referred to in this Part as the **South Wallarah Peninsula site**.

#### **2 Interpretation**

(1) In this Part:

**Additional Permitted Uses Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)—South Wallarah Peninsula Site—Additional Permitted Uses Map*.

**Height of Buildings Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)—South Wallarah Peninsula Site—Height of Buildings Map*.

**heritage conservation area** means an area of land shown on the Heritage Map as a

heritage conservation area (and includes any heritage items situated on or within that area).

**heritage item** means a building, work, relic, tree or place that is shown as a heritage item on the *Heritage Map*.

**Heritage Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)—South Wallarah Peninsula Site—Heritage Map*.

**Land Reservation Acquisition Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)—South Wallarah Peninsula Site—Land Reservation Acquisition Map*.

**Land Zoning Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 26)—South Wallarah Peninsula Site—Land Zoning 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 Relationship with other environmental planning instruments

The only environmental planning instruments that apply, according to their terms, to land within the South Wallarah Peninsula site are this Policy and all other State environmental planning policies, except:

- (a) *State Environmental Planning Policy No 1—Development Standards*, and
- (b) subject to clause 13, *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development* and *State Environmental Planning Policy No 60—Exempt and Complying Development*, and
- (c) *State Environmental Planning Policy No 71—Coastal Protection*.

### 4 Consent authority

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

### 5 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.

## **Division 2 Provisions applicable to all development**

### **6 Development to which Part applies**

This Part applies with respect to development within the South Wallarah Peninsula site and so applies whether or not the development is a project to which Part 3A of the Act applies.

### **7 Land use zones**

- (1) For the purposes of this Part, land within the South Wallarah Peninsula site is in a zone as follows if the land is shown on the *Land Zoning Map* as being within that zone:
  - (a) Zone R2 Low Density Residential,
  - (b) Zone E1 National Parks and Nature Reserves,
  - (c) Zone E2 Environmental Conservation.
- (2) 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.

### **8 Zone R2 Low Density Residential**

- (1) The objectives of Zone R2 Low Density Residential are as follows:
  - (a) to provide for the housing needs of the community within a low density residential environment,
  - (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents,
  - (c) to encourage development that does not impact on the scenic, aesthetic and cultural heritage qualities of the built and natural environment on the Wallarah Peninsula,
  - (d) to encourage development that responds and is sympathetic to the surrounding

built and natural environmental setting,

(e) to ensure that the nuisance generated by non-residential development, such as that related to operating hours, noise, loss of privacy, vehicular and pedestrian traffic or other factors, is controlled so as to preserve the quality of life for residents in the area.

(2) Development for any of the following purposes is permitted without development consent on land within Zone R2 Low Density Residential:

environmental protection works; home occupations; roads.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone R2 Low Density Residential:

advertisements; advertising structures; bed and breakfast accommodation; boarding houses; car parks; child care centres; community facilities; drainage; dwelling houses; earthworks; educational establishments; environmental facilities; filming; flood mitigation works; group homes; health consulting rooms; home based child care or family day care homes; home businesses; home industries; hospitals; information and education facilities; neighbourhood shops; places of public worship; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); schools; shop top housing; signage; telecommunications facilities; utility installations.

(4) Except as otherwise provided by this Policy, development is prohibited on land within Zone R2 Low Density Residential unless it is permitted by subclause (2) or (3).

(5) If development for the purposes of a neighbourhood shop is permitted under this Part, the retail floor area must not exceed 750 square metres.

## **9 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 Policy, development is prohibited on land within Zone E1 National Parks and Nature Reserves unless it is permitted by subclause (2) or (3).

## **10 Zone E2 Environmental Conservation**

- (1) The objectives of Zone E2 Environmental Conservation are as follows:

- (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
- (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.

- (2) Development for any of the following purposes is permitted without development consent on land within Zone E2 Environmental Conservation:

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 E2 Environmental Conservation:

community facilities; drainage; earthworks; environmental facilities; environmental protection works; flood mitigation works; roads; signage; utility installations.

- (4) Except as otherwise provided by this Policy, development is prohibited on land within Zone E2 Environmental Conservation unless it is permitted by subclause (2) or (3).

## **11 Additional permitted uses**

Despite any other provision of this Policy, development for the following purposes on the following land may be carried out with development consent:

- (a) any purpose for which development may be carried out with or without consent on land within Zone R2 Low Density Residential—on land within 20 metres of the following buildings (as identified on the *Additional Permitted Uses Map*):
  - (i) “Wallarah House” which is located at 1a Keene Street, being Part Lot 2031, DP 841175,
  - (ii) “Jetty Master’s Cottage”, which is located on Part Lot 2031, DP 841175,
- (b) recreation areas—on land edged heavy black and identified as “Village Park” or “Coastal Walkway” on the *Additional Permitted Uses Map*.

## 12 Public utility undertakings

Development for the purpose of a public utility undertaking that is carried out on land within the South Wallarah Peninsula site does not require development consent.

### Note—

As a consequence of the removal of the requirement for development consent under Part 4 of the Act, development for the purposes of public utility undertakings is subject to the environmental assessment and approval requirements of Part 5 of the Act or, if it is applicable, Part 3A of the Act.

## 13 Exempt and complying development

(1) Development within the South Wallarah Peninsula site that satisfies the requirements specified in the following, and that does not contravene clause 14, is exempt development:

- (a) Parts 2 (other than clauses 6–10) and 4 of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development*,
- (b) Part 2 of *State Environmental Planning Policy No 60—Exempt and Complying Development*.

(2) Development within the South Wallarah Peninsula site that satisfies the requirements specified in the following, and that does not contravene clause 14, is complying development:

- (a) Part 3 of *State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development*,
- (b) Part 3 of *State Environmental Planning Policy No 60—Exempt and Complying Development*.

## 14 Environmentally sensitive areas excluded

(1) Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.

(2) For the purposes of this clause:

**environmentally sensitive area for exempt or complying development** means any of the following:

- (a) the coastal waters of the State,
- (b) a coastal lake,
- (c) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies,

- (d) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*,
- (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,
- (f) land within 100 metres of land to which paragraph (c), (d) or (e) applies,
- (g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,
- (h) land reserved as a state conservation area under the *National Parks and Wildlife Act 1974*,
- (i) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
- (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

#### **15 Subdivision—consent requirements**

- (1) Land within the South Wallarah Peninsula 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.

#### **16 Height of buildings**

- (1) The objectives of this clause for the control of the height of buildings are as follows:
  - (a) to ensure that development has an appropriate scale and height in relation to its

visual, landscape and heritage setting,

(b) to ensure that building heights do not adversely impact on the amenity of residents and people using the public domain.

(2) The height of a building on land within the South Wallarah Peninsula site is not to exceed the maximum height shown for the land on the *Height of Buildings Map*.

## **17 Exceptions to development standards**

(1) 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.

(2) 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.

(3) 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.

(4) 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 (3), 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.

- (5) 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.
- (6) 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 (3).
- (7) This clause does not allow development consent to be granted for development that would contravene a development standard for complying development.
- (8) The development standards provided for in clauses 16 and 22 are excluded from the operation of this clause (except this subclause).

## **18 Development within the coastal zone**

- (1) The objectives of this clause are as follows:
  - (a) to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,
  - (b) to implement the principles in the NSW Coastal Policy, and in particular to:
    - (i) protect, enhance, maintain and restore the coastal environment, its associated ecosystems, ecological processes and biological diversity and its water quality, and
    - (ii) protect and preserve rock platforms and the natural, cultural, recreational and economic attributes of the NSW coast, and
    - (iii) provide opportunities for pedestrian public access to and along the coastal foreshore, and
    - (iv) recognise and accommodate coastal processes and climate change, and
    - (v) protect amenity and scenic quality, and
    - (vi) protect and preserve beach environments and beach amenity, and
    - (vii) protect and preserve native coastal vegetation, and
    - (viii) protect and preserve the marine environment, and

- (ix) ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and
  - (x) ensure that decisions in relation to new development consider the broader and cumulative impacts on the catchment, and
  - (xi) protect Aboriginal cultural places, values and customs, and
  - (xii) protect and preserve items of heritage, archaeological or historical significance.
- (2) Consent must not be granted to development on land within the South Wallarah Peninsula site that is wholly or partly within the coastal zone unless the consent authority has considered:
- (a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability), with a view to:
    - (i) maintaining existing public access and, where possible, improving that access, and
    - (ii) identifying opportunities for new public access, and
  - (b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:
    - (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and
    - (ii) the location, and
    - (iii) the bulk, scale, size and overall built form design of any building or work involved, and
  - (c) the impact of the proposed development on the amenity of the coastal foreshore, including:
    - (i) any significant overshadowing of the coastal foreshore, and
    - (ii) any loss of views from a public place to the coastal foreshore, and
  - (d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and
  - (e) how biodiversity and ecosystems, including:
    - (i) native coastal vegetation and existing wildlife corridors, and



- (ii) rock platforms, and
  - (iii) water quality of coastal waterbodies, and
  - (iv) native fauna and native flora and their habitats,  
can be conserved, and
  - (f) the effect of coastal processes and coastal hazards and potential impacts,  
including sea level rise:
    - (i) on the proposed development, and
    - (ii) arising from the proposed development, and
  - (g) the cumulative impacts of the proposed development and other development on  
the coastal catchment.
- (3) Consent must not be granted to development on land within the South Wallarah Peninsula site that is wholly or partly within the coastal zone unless the consent authority is satisfied that:
- (a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and
  - (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and
  - (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform.

## **19 Heritage conservation**

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item or is within a heritage conservation area:
- (a) demolish, dismantle, move or alter the building, work, relic, tree or place, or
  - (b) damage or remove the relic, or
  - (c) excavate land for the purpose of discovering, exposing or moving the relic, or
  - (d) damage or despoil the tree or place, or
  - (e) erect a building on, or subdivide, land on which the building, work or relic is situated or that comprises the place, or

- (f) damage any tree, or land on which the building, work or relic is situated, or the land that comprises the place, or
  - (g) make structural changes to the interior of the building or work,  
except with the consent of the consent authority.
- (2) However, consent under this clause is not required if the proponent of the development has notified the consent authority of the proposed development and the consent authority has advised the proponent in writing before any work is carried out that it is satisfied that the proposed development:
- (a) is of a minor nature, or is for the maintenance of the heritage item, or a building, work, relic, tree or place within the heritage conservation area, and
  - (b) would not adversely affect the significance of the heritage item or heritage conservation area.
- (3) 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 (4) or a heritage conservation management plan is submitted under subclause (5).
- (4) 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.
- (5) 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.

## **20 Bush fire hazard reduction**

Bush fire hazard reduction work authorised by the [Rural Fires Act 1997](#) may be carried out on any land within the South Wallarah Peninsula site without consent.

### **Note—**

The [Rural Fires Act 1997](#) also makes provision relating to the carrying out of development on bush fire prone land.

## 21 Underground mining and natural gas exploration

- (1) Development for the purpose of underground mining or natural gas exploration may be carried out, with development consent, on any land within the South Wallarah Peninsula site.
- (2) In this clause, **underground mining** means mining carried out beneath the earth's surface, and includes board and pillar mining, longwall mining, top caving, sub-level caving and auger mining and associated activities involving shafts and access pits, but does not include open cut mining.

## 22 Designated State public infrastructure

- (1) The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of the land within the South Wallarah Peninsula site to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.
- (2) This clause does not apply to land if the whole or any part of it is in a special contributions area (as defined by section 93C of the Act).
- (3) Development consent must not be granted for the subdivision of land within the South Wallarah Peninsula site if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the commencement of this Division, unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.
- (4) Subclause (3) does not apply to:
  - (a) any lot identified in the certificate as a residue lot, or
  - (b) any lot that is proposed in the development application to be reserved or dedicated for public open space, public roads, public utilities, educational facilities, or any other public purpose, or
  - (c) a subdivision for the purpose only of rectifying an encroachment on any existing lot.
- (5) In this clause, **designated State public infrastructure** means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds:
  - (a) State and regional roads,
  - (b) land required for regional open space,

(c) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

(6) A provision of this clause prevails over any other provision of this Part to the extent of any inconsistency.

### **23 Public utility infrastructure**

(1) Development consent must not be granted for development on land within the South Wallarah Peninsula 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**, in relation to an urban release area, includes infrastructure for any of the following:

(a) the supply of water,

(b) the supply of electricity,

(c) the disposal and management of sewage.

## **Division 3 Miscellaneous**

### **24 Land acquisition within certain zones**

(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 within the South Wallarah Peninsula site, 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**

**Authority of the State**

Zone E1 National Park and Nature Reserves	The Minister administering the <i>National Parks and Wildlife Act 1974</i>
Local roads within Zone R2 Low Density Residential	The relevant council

- (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.

**Note—**

If land, other than land specified in the Table to subclause (2), is required to be acquired under the owner-initiated acquisition provisions, this clause is required to be amended to designate the acquiring authority for that land (see section 27 of the Act). The Minister for Planning is required to take action to enable the designation of the acquiring authority under this instrument. Pending the designation of the acquiring authority for that land, the acquiring authority is to be the authority determined by order of the Minister for Planning (see section 21 of the *Land Acquisition (Just Terms Compensation) Act 1991*).

**25 Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land within the South Wallarah Peninsula site to be carried out in accordance with this Policy 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 *Environmental Planning and Assessment Act 1979*.

- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
- (4) Pursuant to section 28 of the Act, before the making of this clause, the Governor approved of subclauses (1)–(3).

## Part 15 Wyong Employment Zone

### 1 Land to which this Part applies

This Part applies to the land shown edged heavy black on the map marked “*State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)—Wyong Employment Zone—Land Application Map*” held in the head office of the Department (the **Wyong Employment Zone**).

### 2 Interpretation

- (1) Except as provided by subclause (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](#).
- (2) In this Part:

**Land Reservation Acquisition Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)—Wyong Employment Zone—Land Reservation Acquisition Map*.

**the Wyong DCP** means *Development Control Plan 2005—Development Controls for Wyong Shire*, as adopted by the Wyong Shire Council on 14 May 2008.

**Zoning Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)—Wyong Employment Zone—Zoning Map*.

### 3 Consent authority

The consent authority for development on land within the Wyong Employment Zone is, subject to the Act, the Wyong Shire 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.

## **5 Relationship with other environmental planning instruments**

- (1) This Policy and all other State environmental planning policies (other than *State Environmental Planning Policy No 1—Development Standards*) apply, according to their terms, to land within the Wyong Employment Zone.
- (2) *Wyong Local Environmental Plan 1991* does not apply to land within the Wyong Employment Zone.

## **6 Land use zones**

- (1) For the purposes of this Policy, land within the Wyong Employment Zone is in a zone as follows if the land is shown on the Zoning Map as being within that zone:
  - (a) Zone IN1 General Industrial,
  - (b) Zone SP2 Infrastructure,
  - (c) Zone E2 Environmental Conservation.
- (2) 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.

## **7 Zone IN1 General Industrial**

- (1) The objectives of Zone IN1 General Industrial are as follows:
  - (a) to facilitate development for a wide range of employment-generating industrial, manufacturing, warehousing, storage or research purposes, including ancillary office space,
  - (b) to encourage employment opportunities in the Wyong Employment Zone,
  - (c) to minimise any adverse effect of industry on other land uses,
  - (d) to ensure development enhances the amenity of the Wyong Employment Zone by including high quality landscaping, adequate building setbacks, high quality external finishes and the like.
- (2) Development for any of the following purposes is permitted with consent on land within Zone IN1 General Industrial:

boat repair facilities; child care centres; community facilities; depots; earthworks;

environmental protection works; filming; freight transport facilities; helipads; kiosks; light industries; industries; liquid fuel depots; neighbourhood shops; recreation facilities (indoor); roads; transport depots; truck depots; warehouse or distribution centres.

- (3) Except as otherwise provided by this Policy, development is prohibited on land within Zone IN1 General Industrial unless it is permitted by subclause (2).

## **8 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.

- (2) Development for any of the following purposes is permitted with consent on land within Zone SP2 Infrastructure:

The purpose shown on the Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.

- (3) Except as otherwise provided by this Policy, development is prohibited on land within Zone SP2 Infrastructure unless it is permitted by subclause (2).

## **9 Zone E2 Environmental Conservation**

- (1) The objectives of Zone E2 Environmental Conservation are as follows:

- (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
- (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.

- (2) Development for any of the following purposes is permitted with consent on land within Zone E2 Environmental Conservation:

environmental facilities; environmental protection works; flood mitigation works; roads; waterbodies (artificial).

- (3) Except as otherwise provided by this Policy, development is prohibited on land within Zone E2 Environmental Conservation unless it is permitted by subclause (2).

## **10 Kiosks, neighbourhood shops and child care centres in Zone IN1 General Industrial**

- (1) The consent authority must not grant consent to development for the purpose of a kiosk on land within Zone IN1 General Industrial if the gross floor area of the kiosk exceeds 80 square metres.



- (2) The consent authority must not grant consent to development for the purpose of a neighbourhood shop on land within Zone IN1 General Industrial if the retail floor area of the neighbourhood shop exceeds 80 square metres.
- (3) The consent authority must not grant consent to development for the purpose of a child care centre on land within Zone IN1 General Industrial unless it is satisfied that the child care centre is intended to provide services to people working in the area in which the child care centre is located.

### **11 Public utility undertakings**

Development for the purposes of public utility undertakings that is carried out on land within the Wyong Employment Zone does not require development consent.

**Note—**

As a consequence of the removal of the requirement for development consent under Part 4 of the Act, development for the purposes of public utility undertakings is subject to the environmental assessment and approval requirements of Part 5 of the Act.

### **12 Subdivision—consent requirements**

- (1) Land within the Wyong Employment Zone may be subdivided, but only with consent.
- (2) However, 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.

### **13 Exempt development**

- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
- (2) Development specified in Chapter 85 of the Wyong DCP that meets the standards for the development contained in that instrument and that complies with the requirements of this Part is exempt development.

(3) To be exempt development:

- (a) the development must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
- (b) if the development relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2-9, the building:
  - (i) must have a current fire safety certificate or fire safety statement, or
  - (ii) must be a building for which no fire safety measures are currently implemented, required or proposed, and
- (c) the development must not:
  - (i) if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, or
  - (ii) create interference with the neighbourhood because it is noisy, causes vibrations, creates smells, fumes, smoke, vapour, steam, soot, ash, dust, waste water, grit or oil, or
  - (iii) be designated development, or
  - (iv) be development on land that comprises, or on which there is, an item of environmental heritage that is listed on the State Heritage Register under the [Heritage Act 1977](#) or that is subject to an interim heritage order under the [Heritage Act 1977](#).

#### **14 Complying development**

- (1) The objective of this clause is to identify development as complying development.
- (2) Development specified in Chapter 86 of the Wyong DCP (other than development of a kind referred to in section 76A (6) of the Act) that is carried out in compliance with:
  - (a) the applicable development standards listed in that instrument, and
  - (b) the requirements of this Part,is complying development.
- (3) To be complying development, the development must:
  - (a) be permissible, with development consent, in the zone in which it is carried out, and
  - (b) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and

- (c) have an approval, if required by the *Local Government Act 1993*, from the Wyong Shire Council for an on-site effluent disposal system if the development is undertaken on unsewered land.

**15 Additional permitted uses—Warnervale Airport**

- (1) This clause applies to the land shown edged heavy black on the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)—Wyong Employment Zone—Warnervale Airport Operations Map*.
- (2) Despite any other provision of this Policy, a person may, with development consent, carry out development for the purpose of an airport on land to which this clause applies.

**16 Additional permitted uses—service stations etc**

- (1) This clause applies to the following land:
  - (a) Lot 1445, DP 747246,
  - (b) Lot 67, DP 755245,
  - (c) Lots 1, 2 and 3, DP 801029.
- (2) Despite any other provision of this Policy, a person may, with development consent, carry out development for the following purposes on land to which this clause applies:
  - (a) service stations,
  - (b) vehicle body repair workshops,
  - (c) vehicle sales or hire premises.

**17 Design**

The consent authority must not grant consent to development on land within the Wyong Employment Zone unless it is satisfied that:

- (a) the development is of a high quality design, and
- (b) a variety of materials and external finishes for the external facades are incorporated, and
- (c) high quality landscaping is provided, and
- (d) the scale and character of the development is compatible with other employment-generating development in the precinct concerned.

**18 Sustainability**

The consent authority must not grant consent to development on land within the Wyong

Employment Zone unless it is satisfied that the development contains measures designed to reduce:

- (a) the consumption of potable water, and
- (b) greenhouse gas emissions.

### **19 Height of buildings**

The consent authority must not grant consent to development on land within the Wyong Employment Zone unless it is satisfied that:

- (a) building heights will not adversely impact on the amenity of adjacent residential areas, and
- (b) site topography has been taken into consideration.

### **20 Water re-use**

The consent authority must not grant consent to development on land within the Wyong Employment Zone unless it is satisfied that adequate arrangements will be made for water re-use.

### **21 Development involving subdivision**

The consent authority must not grant consent to the carrying out of development involving the subdivision of land within the Wyong Employment Zone unless it has considered the following:

- (a) the implications of the fragmentation of large lots of land,
- (b) whether the subdivision will affect the supply of land for employment purposes,
- (c) whether the subdivision will preclude other lots of land within the Wyong Employment Zone from having reasonable access to roads and services.

### **22 Development control plan for Wyong Employment Zone**

- (1) Despite any other provision of this Part, the consent authority must not grant consent to development on land within the Wyong Employment Zone unless a development control plan that provides for the matters specified in subclause (2) has been prepared for the Wyong Employment Zone.
- (2) The development control plan must provide for all of the following:
  - (a) a staging plan for the development,
  - (b) detailed urban design proposals for subdivision, building and landscaping, including subdivision layout, site coverage, floor space ratio, setbacks and signage,

- (c) proposals for storm water and water quality management controls to achieve environmentally sustainable water quality and quantity, including water sensitive urban design, water re-use and storm water drainage,
- (d) recommendations for the built form, including energy efficient design and the building materials and finishes to be used,
- (e) measures to accommodate and ameliorate geotechnical hazards and land contamination,
- (f) an overall flora and fauna strategy for the protection and enhancement of the natural landscape and its scenic qualities,
- (g) proposals for public and private transport facilities, including traffic management, car parking, access and the operation of Warnervale Airport,
- (h) proposals to conserve items and places of Aboriginal heritage significance.

### **23 Public utility infrastructure**

- (1) The consent authority must not grant consent to development on land within the Wyong Employment Zone unless it 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) In this clause, **public utility infrastructure** includes infrastructure for any of the following:
  - (a) the supply of water,
  - (b) the supply of electricity,
  - (c) the supply of natural gas,
  - (d) the disposal and management of sewage,
  - (e) the telecommunications network.
- (3) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure referred to in this clause.

### **24 Acquisition of land within Wyong Employment Zone**

- (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 within the Wyong Employment Zone, 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 that land shown on the Land Reservation Acquisition Map (or, if none is specified, the authority designated or determined under those provisions):

<b>Zone</b>	<b>Authority of the State</b>
Zone E2 Environmental Conservation	Wyong Shire Council
Zone SP2 Infrastructure	Wyong Shire Council

## **25 Exceptions to development standards**

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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 (3), 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.
- (5) 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.
- (6) 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 (3).
- (7) This clause does not allow consent to be granted for development that would contravene a development standard for complying development.

## **26 Development in flight path of Warnervale Airport**

- (1) The objectives of this clause are:
- (a) to provide for the effective and on-going operation of Warnervale Airport, and
  - (b) to ensure that such operation is not compromised by proposed development within the flight path of Warnervale Airport.
- (2) Development consent is required to erect a building:
- (a) that is on land within the flight path of Warnervale Airport, and
  - (b) the proposed height of which would exceed the obstacle limitation surface for that land.
- (3) Any such consent must not be granted unless the consent authority is satisfied that the building will not constitute an obstruction or hazard to aircraft flying in the vicinity.
- (4) In this clause:

**flight path** of Warnervale Airport means the land shown on the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)—Wyong Employment Zone—Warnervale Airport Flight Path Map*, as in force on the date of commencement

of this Part.

**obstacle limitation surface** for land means the obstacle limitation surface for that land shown on the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 21)—Wyong Employment Zone—Warnervale Airport Obstacle Limitation Surface Map*, as in force on the date of commencement of this Part.

## 27 Development in areas subject to airport noise

- (1) The objective of this clause is to ensure that development for residential purposes, or for any other purpose involving regular human occupation, on land subject to significant exposure to aircraft noise incorporates appropriate mitigation measures.
- (2) This clause applies to land within the Wyong Employment Zone where the ANEF contour exceeds 20.
- (3) Development consent is required for the erection of a building on land to which this clause applies if it is erected for residential purposes or for any other purpose involving regular human occupation.
- (4) Any such consent must not be granted unless the consent authority is satisfied that measures to mitigate aircraft noise will be taken that accord with section 3 of AS 2021.
- (5) For the purpose of this clause, the extent of aircraft noise reduction is to be estimated in accordance with clause 3.2.2 of AS 2021.
- (6) In this clause:

**ANEF** means a relevant Australian Noise Exposure Forecast contour map showing the forecast of aircraft noise levels that is expected to exist in the future produced in accordance with the *Guidelines for the Production of Noise Contours for Australian Airports* published by Airservices Australia.

**AS 2021** means AS 2021—2000, *Acoustics—Aircraft noise intrusion—Building siting and construction*.

## Part 16 Warnervale Town Centre

### Division 1 Preliminary

#### 1 Land to which Part applies

This Part applies to the land shown on the [State Environmental Planning Policy \(Major Projects\) 2005 \(Amendment No 24\)—Warnervale Town Centre—Land Application Map](#), referred to in this Part as the **Warnervale Town Centre**.

#### 2 Interpretation

- (1) In this Part:



**allied health and sports medicine services** means commercial health services related to sport and recreation that are provided in a room or a number of rooms attached to or within the curtilage of a community facility or recreation facility (indoor) or recreation facility (outdoor).

**Height of Buildings Map** means the [State Environmental Planning Policy \(Major Projects\) 2005 \(Amendment No 24\)—Warnervale Town Centre—Height of Buildings Map](#).

**Land Application Map** means the [State Environmental Planning Policy \(Major Projects\) 2005 \(Amendment No 24\)—Warnervale Town Centre—Land Application Map](#).

**Land Reservation Acquisition Map** means the [State Environmental Planning Policy \(Major Projects\) 2005 \(Amendment No 24\)—Warnervale Town Centre—Land Reservation Acquisition Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Projects\) 2005 \(Amendment No 24\)—Warnervale Town Centre—Land Zoning Map](#).

**the Wyong DCP** means *Development Control Plan 2005—Development Controls for Wyong Shire*, as adopted by the Wyong Shire Council on 14 May 2008.

**Warnervale Airport Obstacle Limitation Surface Map** means the [State Environmental Planning Policy \(Major Projects\) 2005 \(Amendment No 24\)—Warnervale Town Centre—Warnervale Airport Obstacle Limitation Surface Map](#).

**water cycle management works** means any activity relating to urban stormwater management that retains the natural hydrological regime of receiving environments with the objective of conservation and protection of the whole water cycle and maintaining water quality.

**Wyong Shire Council** means the Council of the Shire of Wyong.

- (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 in the Warnervale Town Centre, other than development that is a project to which Part 3A of the Act applies, is the Wyong Shire 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**

The only environmental planning instruments that apply, according to their terms, to land within the Warnervale Town Centre are this Policy and all other State environmental planning policies, except [State Environmental Planning Policy No 1—Development Standards](#).

## **Division 2 Part 3A projects**

### **6 Part 3A projects**

Development for the purposes of retail premises within the Warnervale Town Centre that has a capital investment value of more than \$20 million and a floor space area of more than 5,000 square metres.

## **Division 3 Provisions relating to development within Warnervale Town Centre**

### **7 Application of Division**

- (1) This Division applies to development on land in the Warnervale Town Centre, except as provided by subclause (2).
- (2) Clauses 9–16, 18–20, 22, 25–27, 30 and 31 do not apply to development within the Warnervale Town Centre to the extent that it is a project to which Part 3A of the Act applies.

### **8 Land use zones**

For the purposes of this Division, land within the Warnervale Town Centre is within a zone as follows if the land is shown on the [Land Zoning Map](#) as being within that zone:

- (a) Zone R1 General Residential,
- (b) Zone B2 Local Centre,
- (c) Zone SP1 Special Activities,
- (d) Zone SP2 Infrastructure,
- (e) Zone RE1 Public Recreation,
- (f) Zone E2 Environmental Conservation,
- (g) Zone E3 Environmental Management.

### **9 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.

### **10 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, tenures, affordability and densities,
- (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents,
- (d) to promote development that is sensitive to the conservation values of the Warnervale Town Centre,
- (e) 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 R1 General Residential:

Nil.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone R1 General Residential:

advertisements; bed and breakfast accommodation; boarding houses; car parks; child care centres; community facilities; dual occupancies; dwelling houses; group homes; health consulting rooms; home-based child care; home businesses; home industries; hospitals; hostels; multi dwelling housing; neighbourhood shops; places of public worship; recreation areas; residential care facilities; residential flat buildings; roads; seniors housing; shop top housing; telecommunications facilities.

- (4) Except as otherwise provided by this Policy, development is prohibited on land within Zone R1 General Residential unless it is permitted by subclause (2) or (3).

### **11 Zone B2 Local Centre**

- (1) The objectives of Zone B2 Local Centre are as follows:
- (a) to provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area,
  - (b) to encourage employment opportunities in accessible locations,
  - (c) to maximise public transport patronage and encourage walking and cycling,
  - (d) to provide uses compatible with the environmental sensitivities and conservation values of the Warnervale Town Centre.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone B2 Local Centre:
- Nil.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone B2 Local Centre:
- bulky goods premises; business premises; car parks; child care centres; community facilities; dual occupancies; educational establishments; entertainment facilities; function centres; information and education facilities; kiosks; medical centres; office premises; passenger transport facilities; public administration buildings; public entertainment; pubs; recreation facilities (indoor); registered clubs; restaurants; retail premises; roads; service stations; shop top housing; telecommunications facilities; tourist and visitor accommodation.
- (4) Except as otherwise provided by this Policy, development on land within Zone B2 Local Centre is prohibited unless it is permitted by subclause (2) or (3).

### **12 Zone SP1 Special Activities**

- (1) The objectives of Zone SP1 Special Activities are as follows:
- (a) to provide for special land uses that are not provided for in other zones,
  - (b) to provide for sites with special natural characteristics that are not provided for in other zones,
  - (c) to facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.
- (2) Development for any of the following purposes is permitted without development

consent on land within Zone SP1 Special Activities:

Nil.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone SP1 Special Activities:

The purpose shown on the [Land Zoning Map](#), including any development that is ordinarily incidental or ancillary to development for that purpose.

- (4) Except as otherwise provided by this Policy, development on land within the Zone SP1 Special Activities is prohibited unless it is permitted by subclause (2) or (3).

### **13 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.

- (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:

The purpose shown on the [Land Zoning Map](#), including any development that is ordinarily incidental or ancillary to development for that purpose.

- (4) Except as otherwise provided by this Policy, development on land within Zone SP2 Infrastructure is prohibited unless it is permitted by subclause (2) or (3).

### **14 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 promote the integration of public open space areas with other land uses within the Warnervale Town Centre,
- (e) 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 RE1 Public Recreation:

environmental facilities; environmental protection works.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone RE1 Public Recreation:

allied health and sports medicine services; community facilities; kiosks; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); roads; water cycle management works.

- (4) Except as otherwise provided by this Policy, development on land within Zone RE1 Public Recreation is prohibited unless it is permitted by subclause (2) or (3).

### **15 Zone E2 Environmental Conservation**

- (1) The objectives of Zone E2 Environmental Conservation are as follows:

- (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
- (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.

- (2) Development for any of the following purposes is permitted without development consent on land within Zone E2 Environmental Conservation:

environmental protection works.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E2 Environmental Conservation:

environmental facilities; pedestrian and cycle paths; roads; water cycle management works.

- (4) Except as otherwise provided by this Policy, development on land within Zone E2 Environmental Conservation is prohibited unless it is permitted by subclause (2) or (3).

### **16 Zone E3 Environmental Management**

- (1) The objectives of Zone E3 Environmental Management are as follows:

- (a) to protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values,
- (b) to provide for a limited range of development that 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 E3 Environmental Management:

environmental protection works; home occupations.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone E3 Environmental Management:

dwelling houses; environmental facilities; information and education facilities; pedestrian and cycle paths; roads; water cycle management works.

(4) Except as otherwise provided by this Policy, development on land within Zone E3 Environmental Management is prohibited unless it is permitted by subclause (2) or (3).

## 17 Prohibited development

Development, other than development that is permitted with or without consent on land within a zone, is prohibited on land within that zone.

## 18 Exempt development

### Note—

Under section 76 of the Act, exempt development may be carried out without the need for development consent under Part 4 of the Act or for assessment under Part 5 of the Act.

Under the section, exempt development:

(a) must be of minimal environmental impact, and

(b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), and

(c) cannot be carried out in a wilderness area (identified under the *Wilderness Act 1987*).

(1) The objective of this clause is to identify development of minimal environmental impact as exempt development.

(2) Development specified in Chapter 85 of the Wyong DCP that meets the standards for the development contained in that instrument and that complies with the requirements of this Part is exempt development.

(3) To be exempt development, the development:

(a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and

(b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and

(c) must not be designated development, and

(d) must not be carried out on land that comprises, or on which there is, an item that is listed on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*.

(4) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2-9 is exempt development only if:

(a) the building has a current fire safety certificate or fire safety statement, or

(b) no fire safety measures are currently implemented, required or proposed for the building.

## 19 Complying development

### Note—

Under section 76A of the Act, development consent for the carrying out of complying development may be obtained by the issue of a complying development certificate.

Under the section, development cannot be complying development if:

(a) it is on land that is critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), or

(b) it is on land within a wilderness area (identified under the *Wilderness Act 1987*), or

(c) the development is designated development, or

(d) the development is on land that comprises, or on which there is, an item of environmental heritage (that is listed on the State Heritage Register or that is subject to an interim heritage order under the *Heritage Act 1977*), or

(e) the development requires concurrence (except a concurrence of the Director-General of the Department of Environment and Climate Change in respect of development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat (identified under the *Threatened Species Conservation Act 1995*), or

(f) the development is on land identified as an environmentally sensitive area.

(1) The objective of this clause is to identify development as complying development.

(2) Development specified in Chapter 86 of the Wyong DCP that is carried out in compliance with:

(a) the applicable development standards and requirements listed in that instrument, and

(b) the requirements of this Part,

is complying development.

(3) To be complying development, the development must:

(a) be permissible, with development consent, in the zone in which it is carried out,



and

- (b) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
- (c) have an approval, if required by the *Local Government Act 1993*, from the Wyong Shire Council for an on-site effluent disposal system if the development is undertaken on unsewered land.

## **20 Subdivision—consent requirements**

- (1) Land within the Warnervale Town Centre 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) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
  - (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional buildings,
  - (d) a consolidation of lots that does not create additional lots or the opportunity for additional buildings,
  - (e) rectifying an encroachment on a lot,
  - (f) creating a public reserve,
  - (g) 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 conveniences.

### **Note—**

If a subdivision is exempt development, the Act enables the subdivision to be carried out without consent.

## **21 Infrastructure development and the use of existing buildings of the Crown**

- (1) This Division does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out without consent under the *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Division does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

## 22 Public utility infrastructure

- (1) Consent must not be granted to development on land within the Warnervale Town Centre 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) In this clause, **public utility infrastructure** includes infrastructure for any of the following:
  - (a) the supply of water,
  - (b) the supply of electricity,
  - (c) the supply of natural gas,
  - (d) the disposal and management of sewage.
- (3) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure referred to in this clause.

## 23 Height of buildings

The height of a building on any land within the Warnervale Town Centre must not exceed the maximum height shown for the land on the [Height of Buildings Map](#).

## 24 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 within Warnervale Town Centre, 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
  - (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.

## **25 Exceptions to development standards—other development**

- (1) This clause applies to development, 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) 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) 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) 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) 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).
- (8) This clause does not allow consent to be granted for development that would contravene a development standard for complying development.

## 26 Land acquisition within certain zones

- (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 within the Warnervale Town Centre that is 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	Wyong Shire Council

- (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.

### Note—

If land, other than land specified in the Table to subclause (2), is required to be acquired under the owner-initiated acquisition provisions, this Part is required to be amended to designate the acquiring authority for that land (see section 27 of the Act). The Minister for Planning is required to take action to enable the designation of the acquiring authority under this Part. Pending the designation of the acquiring authority for that land, the acquiring authority is to be the authority determined by order of the Minister for Planning (see section 21 of the [Land Acquisition \(Just Terms Compensation\) Act 1991](#)).

## **27 Community use of educational establishments**

- (1) The objective of this clause is to allow the use of educational establishments within the Warnervale Town Centre, including their site and facilities, for other community purposes.
- (2) An educational establishment (including the site and facilities) may, with development consent, be used for any other community purpose, whether or not any such use is a commercial use of the land.
- (3) Nothing in this clause requires development consent to carry out development on any land if that development could, but for this clause, be carried out on that land without development consent.

## **28 Development close to a rail corridor**

- (1) The objective of this clause is to ensure that development of land within the Warnervale Town Centre for the purpose of residential accommodation, places of public worship, hospitals, educational establishments or other noise sensitive buildings in the proximity of operating or proposed railways is not adversely affected by rail noise or vibration.
- (2) This clause applies to land comprising, or within 60 metres of, an operating railway line or land reserved for the construction of a railway line (referred to in this clause as a **rail corridor**).
- (3) Development:
  - (a) that is within a rail corridor, and
  - (b) that is likely to be adversely affected by rail noise or vibration,must not be carried out unless the proposed development incorporates all practicable mitigation measures for rail noise or vibration recommended by Rail Corporation New South Wales for development of that kind.

## **29 Development in flight path of Warnervale Airport**

- (1) The objectives of this clause are:
  - (a) to provide for the effective and on-going operation of Warnervale Airport, and
  - (b) to ensure that such operation is not compromised by proposed development within the flight path of Warnervale Airport.
- (2) Development to erect a building:
  - (a) that is on land within the flight path of Warnervale Airport, and
  - (b) the proposed height of which would exceed the obstacle limitation surface for that

land,

must not be carried out unless the building will not constitute an obstruction or hazard to aircraft flying in the vicinity.

(3) For the purposes of this clause, the flight path of Warnervale Airport is land shown as such on the [Warnervale Airport Obstacle Limitation Surface Map](#).

(4) In this clause:

**flight path** of Warnervale Airport means the land shown as such on the [Warnervale Airport Obstacle Limitation Surface Map](#).

**obstacle limitation surface** for land means the obstacle limitation surface for that land shown on the [Warnervale Airport Obstacle Limitation Surface Map](#).

### 30 Preservation of trees or vegetation

(1) The objective of this clause is to preserve the amenity of the Warnervale Town Centre through the preservation of trees and other vegetation.

(2) This clause applies to species or kinds of trees or other vegetation referred to in section 7.2 of Chapter 14 of the Wyong DCP.

(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which this clause applies without the authority conferred by:

(a) development consent, or

(b) a permit granted by the Wyong Shire Council.

(4) The refusal by the Wyong Shire 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 Council to grant development consent for the carrying out of the activity for which a permit was sought.

(5) This clause does not apply to a tree or other vegetation that the Wyong Shire 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 Wyong Shire Council is satisfied is a risk to human life or property.

(7) 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 Act 2002](#), or
- (e) plants declared to be noxious weeds under the [Noxious Weeds Act 1993](#).

### 31 Bush fire hazard reduction

Bush fire hazard reduction work authorised by the [Rural Fires Act 1997](#) may be carried out on any land within the Warnervale Town Centre without development consent.

**Note—**

The [Rural Fires Act 1997](#) also makes provision relating to the carrying out of development on bush fire prone land.

### 32 Controls relating to miscellaneous permissible uses

- (1) This clause applies to development only if it is permitted under this Part or approved under Part 3A of the Act.
- (2) **Bed and breakfast accommodation** Development for the purposes of bed and breakfast accommodation that is provided to guests must consist of no more than 3 bedrooms.
- (3) **Home businesses** Development for the purposes of a home business must not involve the use of more than 30 square metres of floor area.
- (4) **Home industries** Development for the purposes of a home industry must not involve the use of more than 30 square metres of floor area.
- (5) **Kiosks** Development for the purposes of a kiosk must not involve the use of more than 80 square metres of gross floor area.
- (6) **Neighbourhood shops** Development for the purposes of a neighbourhood shop must not involve the use of more than 80 square metres for the retail floor area of the shop.

## Part 17 Doonside Residential Precinct

### 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 **Doonside Residential Precinct site**.

## 2 Interpretation

(1) In this Part:

**Council** means Blacktown City Council.

**Heritage Map** means the [State Environmental Planning Policy \(Major Projects\) 2005 \(Amendment No 34\)—Doonside Residential Precinct Site—Heritage Map](#).

**Land Application Map** means the [State Environmental Planning Policy \(Major Projects\) 2005 \(Amendment No 34\)—Doonside Residential Precinct Site—Land Application Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Projects\) 2005 \(Amendment No 34\)—Doonside Residential Precinct Site—Land Zoning Map](#).

(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 Doonside Residential Precinct site, other than development that is a project to which Part 3A of the Act applies, is the 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 Policy 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 form or paper form, or both.



## **5 Relationship with other environmental planning instruments**

The only environmental planning instruments that apply, according to their terms, to land within the Doonside Residential Precinct site are this Policy and all other State Environmental Planning Policies except *State Environmental Planning Policy No 1—Development Standards*.

## **Division 2 Provisions relating to development within Doonside Residential Precinct site**

### **6 Application of Division**

- (1) This Division applies to development on land in the Doonside Residential Precinct site, except as provided by subclause (2).
- (2) Clauses 9–13, 15, 17–21 do not apply to development within the Doonside Residential Precinct site to the extent that it is a project to which Part 3A of the Act applies.

### **7 Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land within the Doonside Residential Precinct site to be carried out in accordance with this Policy or with a development 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 Council or that the 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*.
- (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).

## **8 Land use zones**

For the purposes of this Part, land within the Doonside Residential Precinct site is in a zone as follows if the land is shown on the [Land Zoning Map](#) as being within that zone:

- (a) Zone R1 General Residential,
- (b) Zone SP2 Infrastructure,
- (c) Zone RE1 Public Recreation,
- (d) Zone E3 Environmental Management.

## **9 Objectives of the 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.

## **10 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,
  - (d) to protect the heritage significance of the site,
  - (e) to protect and enhance the natural environment for recreational purposes,
  - (f) to promote ecologically sustainable development.
- (2) Development for any of the following purposes is permitted only with development consent on land within Zone R1 General Residential:
- attached dwellings; boarding houses; car parks; child care centres; community facilities; dwelling houses; environmental protection works; group homes; hostels; multi dwelling housing; neighbourhood shops; places of public worship; recreation areas; residential care facilities; residential flat buildings; roads; semi-detached dwellings; seniors housing; shop top housing.
- (3) Except as otherwise provided by this Policy, development is prohibited on land within Zone R1 General Residential unless it is permitted by subclause (2).

### **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.
- (2) Development for any of the following purposes is permitted only with development consent on land within Zone SP2 Infrastructure:

the purpose shown on the [Land Zoning Map](#), including any development that is ordinarily incidental or ancillary to development for that purpose.
- (3) Except as otherwise provided by this Policy, development is prohibited on land within Zone SP2 Infrastructure unless it is permitted by subclause (2).

### **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 enhance the natural environment for recreation purposes.
- (2) Development for any of the following purposes is permitted only with development consent on land within Zone RE1 Public Recreation:

community facilities; environmental facilities; environmental protection works; kiosks; recreation areas; roads.
- (3) Except as otherwise provided by this Policy, development is prohibited on land within Zone RE1 Public Recreation unless it is permitted by subclause (2).

### **13 Zone E3 Environmental Management**

- (1) The objectives of Zone E3 Environmental Management are as follows:
  - (a) to protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values,
  - (b) to provide for a limited range of development that does not have an adverse effect on those values.
- (2) Development for any of the following purposes is permitted only with development consent on land within Zone E3 Environmental Management:

community facilities; dwelling houses; environmental protection works; kiosks; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); roads.

- (3) Except as otherwise provided by this Policy, development is not permitted on land within Zone E3 Environmental Management unless it is permitted by subclause (2).

#### **14 Prohibited development**

Development, other than development that is permitted with or without consent on land within a zone, is prohibited on land within that zone.

#### **15 Subdivision—consent requirements**

- (1) Land within the Doonside Residential Precinct site may be subdivided, but only with development consent.
- (2) However, development consent is not required for a subdivision for the purpose only of one or more of the following:
- (a) widening a public road,
  - (b) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
  - (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional buildings,
  - (d) a consolidation of lots that does not create additional lots or the opportunity for additional buildings,
  - (e) rectifying an encroachment on a lot,
  - (f) creating a public reserve,
  - (g) 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.

#### **16 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 within the Doonside Residential Precinct 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

(b) there are sufficient environmental planning grounds to justify exempting development by allowing flexibility in particular circumstances.

(2) In deciding whether to issue a certificate, the Director-General must consider:

(a) whether contravention of the development standard gives rise to 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.

### **17 Exceptions to development standards—other development**

(1) This clause applies to development, 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) 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) 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) 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) Consent must not be granted under this clause for a subdivision of land in Zone E3 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 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 \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated.

## **18 Exempt and complying development**

Development within the Doonside Residential Precinct site that satisfies the requirements for exempt development or complying development specified in [Blacktown Local Environmental Plan 1988](#) is exempt development or complying development, as appropriate.

## **19 Heritage conservation**

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item:

- (a) demolish, dismantle, move or alter the building, work, relic, tree or place, or
  - (b) damage or remove the relic, or
  - (c) excavate land for the purpose of discovering, exposing or moving the relic, or
  - (d) damage or despoil the tree or place, or
  - (e) erect a building on, or subdivide, land on which the building, work or relic is situated or that comprises the place, or
  - (f) damage any tree or land on which the building, work or relic is situated on or on the land which comprises the place, or
  - (g) make structural changes to the interior of the building or work,
- except with the consent of the consent authority.
- (2) 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 located, 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.
- (3) Consent is not required under this clause if 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:
- (a) is of a minor nature, or is for the maintenance of the heritage item, and
  - (b) would not adversely affect the significance of the heritage item.
- (4) In this clause, **heritage item** means an item of heritage that is:
- (a) shown on the [Heritage Map](#), or

- (b) subject to an interim heritage order under the *Heritage Act 1977*, or
- (c) listed on the State Heritage Register under that Act.

## 20 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.

## 21 Infrastructure development and the 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, by or on behalf of a public authority that is permitted to be carried out without consent under *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.

## Part 18 Bloomfield 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 ***Bloomfield site***.

#### 2 Interpretation

- (1) In this Part:

***consent authority*** means the council.

***council*** means the Orange City Council.

***Floor Space Ratio Map*** means the [State Environmental Planning Policy \(Major Projects\) Amendment \(Bloomfield\) 2009 Floor Space Ratio Map](#).

***Height of Buildings Map*** means the [State Environmental Planning Policy \(Major Projects\) Amendment \(Bloomfield\) 2009 Height of Buildings Map](#).

***Land Application Map*** means the [State Environmental Planning Policy \(Major Projects\) Amendment \(Bloomfield\) 2009 Land Application Map](#).

***Land Zoning Map*** means the [State Environmental Planning Policy \(Major Projects\)](#)



### Amendment (Bloomfield) 2009 Land Zoning Map.

- (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 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.

### 4 Relationship with other environmental planning instruments

The only environmental planning instruments that apply, according to their terms, to or in respect of development in the Bloomfield site are as follows:

- (a) this Policy,
- (b) all other State environmental planning policies otherwise applicable to the land, except *State Environmental Planning Policy No 1—Development Standards*.

## Division 2 Provisions relating to development in Bloomfield site

### 5 Application of Division

- (1) This Division applies to development on land in the Bloomfield site, except as provided by subclause (2).
- (2) Clauses 7-10, 12-16 and 18-21 do not apply to development in the Bloomfield site to the extent that it is a project to which Part 3A of the Act applies.

### 6 Land use zones

For the purposes of this Part, land in the Bloomfield site is in a zone as follows if the land

is shown on the [Land Zoning Map](#) as being in that zone:

- (a) Zone R2 Low Density Residential,
- (b) Zone B4 Mixed Use,
- (c) Zone SP2 Infrastructure.

## **7 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 in the zone.

## **8 Zone R2 Low Density Residential**

(1) The objectives of Zone R2 Low Density Residential are as follows:

- (a) to provide for the housing needs of the community in a low density residential environment,
- (b) 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 consent on land in Zone R2 Low Density Residential:

environmental protection works; home occupations.

(3) Development for any of the following purposes is permitted only with development consent on land in Zone R2 Low Density Residential:

attached dwellings; dwelling houses; exhibition villages; group homes; recreation facilities (outdoor); roads; semi-detached dwellings; seniors housing.

(4) Except as otherwise provided by this Policy, development is prohibited on land in Zone R2 Low Density Residential unless it is permitted by subclause (2) or (3).

## **9 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 consent on land in Zone B4 Mixed Use:

nil.

- (3) Development for any of the following purposes is permitted only with development consent on land in Zone B4 Mixed Use:

attached dwellings; boarding houses; business premises; child care centres; community facilities; dwelling houses; educational establishments; entertainment facilities; function centres; hotel or motel accommodation; information and education facilities; multi dwelling housing; office premises; passenger transport facilities; recreation facilities (indoor); registered clubs; retail premises; roads; shop top housing.

- (4) Except as otherwise provided by this Policy, development is prohibited on land in Zone B4 Mixed Use unless it is permitted by subclause (2) or (3).

## **10 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.

- (2) Development for any of the following purposes is permitted without consent on land in Zone SP2 Infrastructure:

roads.

- (3) Development for any of the following purposes is permitted only with development consent on land in Zone SP2 Infrastructure:

the purpose shown on the [Land Zoning Map](#) including any development that is ordinarily incidental or ancillary to development for that purpose.

- (4) Except as otherwise provided by this Policy, development is prohibited on land in Zone SP2 Infrastructure unless it is permitted by subclause (2) or (3).

## **11 Prohibited development**

Development, other than development that is permitted with or without consent on land in a zone, is prohibited on land in that zone.

## **12 Subdivision—consent requirements**

- (1) Land in the Bloomfield 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) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
- (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional buildings,
- (d) a consolidation of lots that does not create additional lots or the opportunity for additional buildings,
- (e) rectifying an encroachment on a lot,
- (f) creating a public reserve,
- (g) 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.

### **13 Minimum subdivision lot size**

- (1) The objectives of this clause are as follows:
  - (a) to provide a minimum lot size for the subdivision of land,
  - (b) to ensure that lot sizes are able to accommodate appropriate development and are consistent with relevant development controls for the subdivision of land,
  - (c) to minimise any likely impact of subdivision and development on the amenity of neighbouring properties.
- (2) This clause applies to a subdivision of any land in the Bloomfield site 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 is not to be less than 450m<sup>2</sup>.
- (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

### **14 Height of buildings**

- (1) The objectives of this clause are as follows:
  - (a) to establish a maximum height limit in which buildings can be designed,
  - (b) to ensure the height of buildings complements the streetscape and character of the area in which the buildings are located,
  - (c) to ensure the height of buildings protects the amenity of neighbouring properties in terms of visual bulk, access to sunlight, privacy and views.

- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).

#### **15 Floor space ratio**

- (1) The objectives of this clause are as follows:
  - (a) to control building density and bulk in relation to sites in order to achieve the desired future character of the area in which buildings are located,
  - (b) to establish standards for the maximum development density and intensity of land use, taking into account the availability of infrastructure and the generation of vehicle and pedestrian traffic,
  - (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties.
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#).

#### **16 Retail premises in Zone B4**

- (1) The objectives of this clause are as follows:
  - (a) to provide opportunities for retailing in Zone B4 Mixed Use that will not adversely affect the economic sustainability of Orange CBD,
  - (b) to set a maximum retail floor space for development in Area 2 shown on the [Floor Space Ratio Map](#),
  - (c) to prohibit retail premises in Area 1 shown on the [Floor Space Ratio Map](#).
- (2) Despite clauses 9 and 15:
  - (a) retail floor space for all development on land in Area 2 (Zone B4 Mixed Use) shown on the [Floor Space Ratio Map](#) must not exceed 1,500m<sup>2</sup>, and
  - (b) development for retail premises is prohibited in Area 1 (Zone B4 Mixed Use) shown on the [Floor Space Ratio Map](#).

#### **17 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 in the Bloomfield 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

(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.

### **18 Exceptions to development standards—other development**

(1) This clause applies to development, 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) 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) 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) 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 in 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) 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).

(8) This clause does not allow consent to be granted for development that would contravene 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 \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated.

## **19 Public utility infrastructure**

(1) Development consent must not be granted for development on land in the Bloomfield 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) In this clause, **public utility infrastructure** includes infrastructure for any of the following:

(a) the supply of water,

(b) the supply of electricity,

(c) the supply of natural gas,

(d) the disposal and management of sewage.

(3) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.

## **20 Infrastructure development and the use of existing buildings of the Crown**

- (1) This Division does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without consent or that is exempt development under *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Division does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

## **21 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.

## **22 Suspension of covenants, agreements and instruments**

- (1) For the purpose of enabling development on land in the Bloomfield site to be carried out in accordance with this Policy or with a development 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 council or that the 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).

## **Part 19 Potts Hill Reservoirs site**

### **Division 1 Preliminary**

#### **1 Land to which this Part applies**

This Part applies to the land identified on the [Land Application Map](#), referred to in this Part as the **Potts Hill Reservoirs site**.

#### **2 Interpretation**

- (1) In this Part:

**Council** means the Council of the City of Bankstown.

**Floor Space Ratio Map** means the [State Environmental Planning Policy \(Major Projects\) 2005 \(Amendment No 36\)—Potts Hill Reservoirs site—Floor Space Ratio Map](#).

**Height of Buildings Map** means the [State Environmental Planning Policy \(Major Projects\) 2005 \(Amendment No 36\)—Potts Hill Reservoirs site—Height of Buildings Map](#).

**Land Application Map** means the [State Environmental Planning Policy \(Major Projects\) 2005 \(Amendment No 36\)—Potts Hill Reservoirs site—Land Application Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Projects\) 2005 \(Amendment No 36\)—Potts Hill Reservoirs site—Land Zoning Map](#).

- (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 in the Potts Hill Reservoirs site, other than development that is a project to which Part 3A of the Act applies, is the Council.

#### **4 Relationship with other environmental planning instruments**

The only environmental planning instruments that apply, according to their terms, to land within the Potts Hill Reservoirs site are this Policy and all other State environmental planning policies, except *State Environmental Planning Policy No 1—Development standards*.

## **5 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 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.

## **Division 2 Provisions applying to development within Potts Hill Reservoirs site**

### **6 Application of Division**

- (1) This Division applies to development on land in the Potts Hill Reservoirs site, except as provided by subclause (2).
- (2) Clauses 8–12, 17 and 18 do not apply to development within the Potts Hill Reservoirs site 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 Part, land within the Potts Hill Reservoirs site is in a zone as follows if the land is shown on the [Land Zoning Map](#) as being within that zone:

- (a) Zone R2 Low Density Residential,
- (b) Zone R3 Medium Density Residential,
- (c) Zone B7 Business Park,
- (d) Zone RE1 Public Recreation.

### **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.

## **9 Zone R2 Low Density Residential**

- (1) The objectives of Zone R2 Low Density Residential are as follows:
  - (a) to provide for the housing needs of the community within a low density residential environment, and
  - (b) 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 R2 Low Density Residential:

environmental protection works; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R2 Low Density Residential:

attached dwellings; boarding houses; child care centres; community facilities; dual occupancies; dwelling houses; environmental facilities; group homes; home-based child care; home businesses; kiosks; neighbourhood shops; places of public worship; recreation areas; roads; seniors housing.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R2 Low Density Residential unless it is permitted by subclause (2) or (3).

## **10 Zone R3 Medium Density Residential**

- (1) The objectives of Zone R3 Medium Density Residential are as follows:
  - (a) to provide for the housing needs of the community within a medium density residential environment,
  - (b) to provide a variety of housing types within a medium density residential environment,
  - (c) to enable other land uses that provide facilities and 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 R3 Medium Density Residential:

environmental protection works; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R3 Medium Density Residential:

attached dwellings; boarding houses; child care centres; community facilities; dual occupancies; dwelling houses; environmental facilities; group homes; home-based child care; home businesses; kiosks; multi dwelling housing; neighbourhood shops;

places of public worship; recreation areas; residential flat buildings; roads; seniors housing.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R3 Medium Density Residential unless it is permitted by subclause (2) or (3).

#### **11 Zone B7 Business Park**

- (1) The objectives of Zone B7 Business Park are as follows:

- (a) to provide a range of office and light industrial uses,
- (b) to encourage employment opportunities,
- (c) to enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

- (2) Development for the following purpose is permitted without development consent on land within Zone B7 Business Park:

nil.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone B7 Business Park:

child care centres; helipads; light industries; neighbourhood shops; office premises; passenger transport facilities; roads; warehouse or distribution centres.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone B7 Business Park 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 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.

- (2) Development for the purpose of environmental protection works is permitted without development consent on land within Zone RE1 Public Recreation.

- (3) Development for the following purposes is permitted only with development consent on land within Zone RE1 Public Recreation:

environmental facilities; kiosks; recreation areas; 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 Prohibited development**

Development, other than development that is permitted with or without consent on land within a zone is prohibited on land within that zone.

### **14 Height of buildings**

The height of a building on land within the Potts Hill Reservoirs site is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).

### **15 Floor space ratio**

The floor space ratio of a building on any land is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#).

### **16 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 within the Potts Hill Reservoirs 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
  - (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.

### **17 Exceptions to development standards—other development**

- (1) This clause applies to development, 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 standards to particular development, and
  - (b) to achieve better outcomes for and from development by allowing flexibility in

particular circumstances.

- (3) 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) 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) there are sufficient environmental planning grounds to justify contravening the development standard.
- (5) 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 standards 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 benefits of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Director-general before granting concurrence.
- (7) 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).
- (8) This clause does not allow consent to be granted for development that would contravene a development standard for complying development.

## **18 Infrastructure development and the use of existing buildings of the Crown**

- (1) This Division does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of and development, by or on behalf of a public authority, 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 Division does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

## **19 Controls relating to miscellaneous permissible uses**

- (1) This clause applies to development only if it is permitted under this Part or approved under Part 3A of the Act.
- (2) **Home businesses** Development for the purposes of a home business must not involve the use of more than 30 square metres of floor area.
- (3) **Kiosks** Development for the purposes of a kiosk must not involve the use of more than 10 square metres of gross floor area.
- (4) **Neighbourhood shops** Development for the purpose of a neighbourhood shop must not involve the use of more than 80 square metres for the retail floor area of the shop.

## **Part 22 Greystanes Southern Employment Lands site**

### **Division 1 Preliminary**

#### **1 Land to which Part applies**

This Part applies to the land shown edged heavy black on the Land Application Map, being the Greystanes Southern Employment Lands site (referred to in this Schedule as the **Greystanes SEL site**).

#### **2 Interpretation**

- (1) In this Part and in Part 2 of Schedule 8:

**Additional Permitted Uses Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 22)—Greystanes Southern Employment Lands Site—Additional Permitted Uses Map*.

**associated office premises** means premises associated with development on land within Zone IN2 Light Industrial for another purpose permitted by clause 8 (2) or (3).

**consent authority** means the relevant council.

**Land Application Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 22)—Greystanes Southern Employment Lands*

*Site—Land Application Map.*

**Land Zoning Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 22)—Greystanes Southern Employment Lands Site—Land Zoning 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 Relationship with other environmental planning instruments**

The only environmental planning instruments that apply, according to their terms, to land within the Greystanes SEL site are this Policy and all other State environmental planning policies, except *State Environmental Planning Policy No 1—Development Standards* and *State Environmental Planning Policy No 59—Central Western Sydney Economic and Employment Area*.

### **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.

## **Division 2 Provisions relating to development within Greystanes SEL site**

### **5 Application of Division**

- (1) This Division applies to development on land in the Greystanes SEL site, except as provided by subclause (2).
- (2) Clauses 7, 8, 9, 11 and 20–26 do not apply to development within the Greystanes SEL



site to the extent that it is a project to which Part 3A of the Act applies.

## **6 Land use zones**

For the purposes of this Division, land within the Greystanes SEL site is in a zone as follows if the land is shown on the Land Zoning Map as being within that zone:

- (a) Zone B7 Business Park,
- (b) Zone IN2 Light Industrial.

## **7 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.

## **8 Zone B7 Business Park**

(1) The objectives of Zone B7 Business Park are as follows:

- (a) to provide a range of office and research and development uses,
- (b) to encourage employment opportunities,
- (c) to enable other land uses that provide facilities or services to meet the day to day needs of workers in the area,
- (d) to service the site by providing for a variety of commercial and retail facilities.

(2) Development for the purpose of environmental protection works is permitted without development consent on land within Zone B7 Business Park.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone B7 Business Park:

business premises; car parks; child care centres; community facilities; food and drink premises; function centres; light industries; neighbourhood shops; office premises; passenger transport facilities; pubs; recreation facilities (indoor); restaurants; retail premises; roads; service stations; supermarkets, transport depots; truck depots; vehicle repair stations; warehouses or distribution centres.

(4) Except as otherwise provided by this Division, development is prohibited on land within Zone B7 Business Park unless it is permitted by subclause (2) or (3).

## **9 Zone IN2 Light Industrial**

(1) The objectives of Zone IN2 Light Industrial are as follows:

- (a) to provide a wide range of light industrial, warehouse and related land uses,
- (b) to encourage employment opportunities,

- (c) to minimise any adverse effect of industry on other land uses,
  - (d) to enable other land uses that provide facilities or services to meet the day to day needs of workers in the area,
  - (e) to facilitate employment-generating development for a wide range of purposes, including light industry, technology-based industry, manufacturing, warehousing, storage and research.
- (2) Development for the purpose of environmental protection works is permitted without development consent on land within Zone IN2 Light Industrial.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone IN2 Light Industrial:
- associated office premises; child care centres; depots; freight transport facilities; hotel accommodation (on land shown on the Additional Permitted Uses Map); landscape and garden supplies; light industries; materials recycling or recovery centres; neighbourhood shops; roads; passenger transport facilities; take away food and drink premises; timber and building supplies; vehicle repair stations; warehouses or distribution centres.
- (4) Except as otherwise provided by this Division, development is prohibited on land within Zone IN2 Light Industrial unless it is permitted by subclause (2) or (3).

## **10 Prohibited development**

Development, other than development that is permitted with or without consent on land within a zone, is prohibited on land within that zone.

## **11 Subdivision**

- (1) Land within the Greystanes SEL 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) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
  - (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional buildings,
  - (d) a consolidation of lots that does not create additional lots or the opportunity for additional buildings,

- (e) rectifying an encroachment on a lot,
- (f) creating a public reserve,
- (g) 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 conveniences.

## **12 Infrastructure development and the use of existing buildings of the Crown**

- (1) This Division does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out without consent under the *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) This Division does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

## **13 Height of buildings**

The height of a building on any land:

- (a) within Zone B7 Business Park must not exceed 25 metres, and
- (b) within Zone IN2 Light Industrial must not exceed 15 metres, measured from ground level (finished).

## **14 Gross floor area**

- (1) The total gross floor area of all buildings on land within Zone B7 Business Park must not exceed 104,000 square metres, and within that amount:
  - (a) the total gross floor areas of all buildings, other than those buildings included in paragraph (b), must not exceed 97,500 square metres, and
  - (b) the total gross floor area of all retail premises, service stations and vehicle repair stations must not exceed 6,500 square metres, and within that amount the gross floor area of all pubs must not exceed 2,500 square metres and the gross floor area of all supermarkets must not exceed 2,000 square metres, and
  - (c) any building containing office premises must have a minimum gross floor area of 3,000 square metres.
- (2) The following gross floor area requirements apply to buildings on land within Zone IN2 Light Industrial:
  - (a) if the boundary of that land at every point is less than 400 metres from a bus stop, no more than 50% of the gross floor area of the buildings on that land may be used for the purpose of associated office premises,

- (b) if the boundary of that land at every point is 400 metres or more from a bus stop, no more than 30% of the gross floor area of the buildings on that land may be used for the purpose of associated office premises.

### **15 Floor space ratio**

The floor space ratio for any building on land within Zone IN2 Light Industrial must not exceed 0.75:1.

### **16 Hotel accommodation**

Despite any other provision of this Division, the following requirements apply to development for the purpose of hotel accommodation on land to which this Division applies:

- (a) the gross floor area must not exceed 5,000 square metres,
- (b) the height must not exceed 25 metres measured from ground level (finished),
- (c) the floor space ratio must not exceed 1:1.

### **17 Child care centres**

The following requirements apply to development for the purposes of a child care centre on land to which this Division applies:

- (a) the development must be intended to primarily provide services to people working in the area in which the child care centre is located,
- (b) the development must provide no more than 40 child care places,
- (c) the development must have an internal play area of at least 130 square metres and an external play area of at least 280 square metres.

### **18 Car parking in new or existing buildings**

- (1) Development for the purpose of erecting a new building, or altering an existing building that increases the gross floor area of the building, being a building that is to be used for a purpose set out in Column 1 of the Table to this clause, must make provision for the car parking set out opposite that purpose in Column 2 of the Table.
- (2) For the purposes of this clause, the following are to be included as part of a building's gross floor area:
  - (a) any area of the building that is used for car parking and is at or above existing ground level,
  - (b) any area of the building that is used for car parking below existing ground level, except where the car parking is provided as required by this clause.

- (3) Council owned public car parking is not to be included as part of a building's gross floor area.

**Table**

<b>Column 1</b>	<b>Column 2</b>
<b>Proposed use of building</b>	<b>Number of parking spaces required</b>
Light industry	1 parking space to be provided for every 77 square metres of gross floor area
Office premises	1 parking space to be provided for every 40 square metres of gross floor area
Retail	1 parking space to be provided for every 20 square metres of gross floor area
Warehouses or distribution centres	1 parking space to be provided for every 300 square metres of gross floor area

**19 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 within the Greystanes SEL 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
  - (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.

**20 Exceptions to development standards—other development**

- (1) This clause applies to development, 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) 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) 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) 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) 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).

- (8) This clause does not allow consent to be granted for development that would contravene a development standard for complying development.

## **21 Design excellence**

- (1) Consent must not be granted to development involving the erection of a new building or external alterations to an existing building unless the consent authority has considered whether the proposed building exhibits design excellence.
- (2) In considering whether the proposed building exhibits design excellence, the consent authority must have regard to the following matters:
- (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 building will improve the quality and amenity of the public domain,
  - (c) whether the building will meet sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resource, energy and water efficiency, and in accordance with any development control plan applying to the site area for the building.

## **22 Architectural roof features**

- (1) The objectives of this clause are:
- (a) to ensure that architectural roof features to which this clause applies are decorative elements only, and
  - (b) to ensure that the majority of the roof features are contained within the prescribed building height.
- (2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 13 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.

### 23 Public utility infrastructure

- (1) Consent must not be granted to development on land within the Greystanes SEL 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) In this clause, **public utility infrastructure** includes infrastructure for any of the following:
  - (a) the supply of water,
  - (b) the supply of electricity,
  - (c) the supply of natural gas,
  - (d) the disposal and management of sewage.
- (3) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure referred to in this clause.

### 24 Exempt development

#### Note—

Under section 76 of the Act, exempt development may be carried out without the need for development consent under Part 4 of the Act or for assessment under Part 5 of the Act.

Under the section, exempt development:

- (a) must be of minimal environmental impact, and
- (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the [Threatened Species Conservation Act 1995](#) or the [Fisheries Management Act 1994](#)), and
- (c) cannot be carried out in a wilderness area (identified under the [Wilderness Act 1987](#)).

- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
- (2) Development specified in Part 2 of Schedule 8 that meets the standards for the development contained in that Part and that complies with the requirements of this Division is exempt development.
- (3) To be exempt development, the development:



- (a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
  - (b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and
  - (c) must not be designated development, and
  - (d) must not be carried out on land that comprises, or on which there is, an item that is listed on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*, and
  - (e) must not be carried out in an environmentally sensitive area for exempt or complying development (as defined in clause 26).
- (4) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2-9 is exempt development only if:
- (a) the building has a current fire safety certificate or fire safety statement, or
  - (b) no fire safety measures are currently implemented, required or proposed for the building.

## 25 Complying development

### Note—

Under section 76A of the Act, development consent for the carrying out of complying development may be obtained by the issue of a complying development certificate.

Under the section, development cannot be complying development if:

- (a) it is on land that is critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), or
- (b) it is on land within a wilderness area (identified under the *Wilderness Act 1987*), or
- (c) the development is designated development, or
- (d) the development is on land that comprises, or on which there is, an item of environmental heritage (that is listed on the State Heritage Register or that is subject to an interim heritage order under the *Heritage Act 1977*), or
- (e) the development requires concurrence (except a concurrence of the Director-General of the Department of Environment and Climate Change in respect of development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat (identified under the *Threatened Species Conservation Act 1995*), or
- (f) the development is on land identified as an environmentally sensitive area.

(1) The objective of this clause is to identify development as complying development.

(2) Development specified in Part 1 of Schedule 9 that is carried out in compliance with:

(a) the development standards specified in that Part, and

(b) the requirements of this Division,

is complying development.

(3) To be complying development, the development must:

(a) be permissible, with consent, in the zone in which it is carried out, and

(b) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and

(c) have an approval, if required by the *Local Government Act 1993*, from the relevant Council for an on-site effluent disposal system if the development is undertaken on unsewered land.

## 26 Environmentally sensitive areas excluded

(1) Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.

(2) For the purposes of this clause:

***environmentally sensitive area for exempt or complying development*** means any of the following:

(a) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,

(b) land reserved as a State conservation area under the *National Parks and Wildlife Act 1974*,

(c) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,

(d) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

## 27 Suspension of covenants, agreements and instruments

(1) For the purpose of enabling development on land within the Greystanes SEL site to be carried out in accordance with this Policy 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 a relevant Council or that a 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*.
- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
- (4) Pursuant to section 28 of the Act, before the making of this clause, the Governor approved of subclauses (1)–(3).

## Part 29 Vincentia Coastal Village site

### Division 1 Preliminary

#### 1 Land to which Part applies

This Part applies to the land shown edged heavy black on the Land Application Map, referred to in this Part as the **Vincentia Coastal Village site**.

#### 2 Interpretation

(1) In this Part:

**Additional Permitted Uses Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 29)—Vincentia Coastal Village Site—Additional Permitted Uses Map*.

**Building Height Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 29)—Vincentia Coastal Village Site—Building Height Map*.

**Council** means the Shoalhaven City Council.

**Exempt and Complying Development Controls—Vincentia Coastal Village** means the document of that name as approved by the Director-General on 8 July 2008 and held at the office of the Council.

**heritage item** means:

- (a) an archaeological site, or
- (b) a place of Aboriginal heritage significance, or
- (c) a building, work, relic or tree that is situated within a site referred to in paragraph (a) or a place referred to in paragraph (b).

**Land Application Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 29)—Vincentia Coastal Village Site—Land Application Map*.

**Land Reservation Acquisition Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 29)—Vincentia Coastal Village Site—Land Reservation Acquisition Map*.

**Land Zoning Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 29)—Vincentia Coastal Village Site—Land Zoning Map*.

- (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 or is referred to in the definition of **heritage item** in this Part.

### 3 Consent authority

The consent authority for development on land within the Vincentia Coastal Village site, other than development that is a project to which Part 3A of the Act applies, is the 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**

The only environmental planning instruments that apply, according to their terms, to land within the Vincentia Coastal Village site are this Policy and all other State environmental planning policies except for the following:

- (a) *State Environmental Planning Policy No 1—Development Standards*,
- (b) *State Environmental Planning Policy No 71—Coastal Protection*.

## **Division 2 Part 3A projects**

### **6 Part 3A projects**

- (1) Such development within the Vincentia Coastal Village site as has a capital investment value of more than \$5 million, other than development for the purposes of a public utility undertaking.
- (2) Subdivision of land within the Vincentia Coastal Village site, other than a strata title subdivision, a community title subdivision, or a subdivision for any one or more of the following purposes:
  - (a) widening a public road,
  - (b) a minor realignment of boundaries that does not create additional lots or the opportunity for additional lots,
  - (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.

## **Division 3 Provisions applying to development within Vincentia Coastal Village site**

### **7 Application of Division**

This Division applies with respect to development within the Vincentia Coastal Village site and so applies whether or not the development is a project to which Part 3A of the Act applies.

## **8 Land use zones**

- (1) For the purposes of this Part, land within the Vincentia Coastal Village site is in a zone as follows if the land is shown on the Land Zoning Map as being within that zone:
  - (a) Zone R2 Low Density Residential,
  - (b) Zone B2 Local Centre,
  - (c) Zone RE1 Public Recreation,
  - (d) Zone E2 Environmental Conservation.
- (2) 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.

## **9 Zone R2 Low Density Residential**

- (1) The objectives of Zone R2 Low Density Residential are as follows:
  - (a) to provide for the housing needs of the community within a low density residential environment,
  - (b) to enable other land uses that provide facilities or services to meet the day to day needs of residents,
  - (c) to incorporate contemporary design principles in the design of new buildings and the relationship of those buildings to the public domain and the natural environment,
  - (d) to promote energy efficiency and other sustainable development practices,
  - (e) to minimise the impact on residential development from non-residential development (such as impacts relating to operating hours, noise, loss of privacy and vehicular and pedestrian traffic).
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R2 Low Density Residential:

environmental protection works; home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R2 Low Density Residential:

bed and breakfast accommodation; boat launching ramps; building identification signs; car parks; child care centres; drainage; dual occupancies; dwelling houses; earthworks; educational establishments; filming; flood mitigation works; group homes; health consulting rooms; home-based child care; home businesses; hospitals; information and education facilities; multi dwelling housing; neighbourhood shops; places of public worship; recreation areas; recreation

facilities (indoor); recreation facilities (outdoor); residential care facilities; roads; schools; seniors housing; swimming pools; veterinary hospitals.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R2 Low Density Residential unless it is permitted by subclause (2) or (3).

## **10 Zone B2 Local Centre**

- (1) The objectives of Zone B2 Local Centre are as follows:

- (a) to provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area,
- (b) to encourage employment opportunities in accessible locations,
- (c) to maximise public transport patronage and encourage walking and cycling,
- (d) to incorporate contemporary design principles in the design of new buildings and the relationship of those buildings to the public domain and the natural environment,
- (e) to promote energy efficiency and other sustainable development practices,
- (f) to minimise the impact on residential development from non-residential development (such as impacts relating to operating hours, noise, loss of privacy and vehicular and pedestrian traffic).

- (2) Development for any of the following purposes is permitted without development consent on land within Zone B2 Local Centre:

environmental protection works.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone B2 Local Centre:

amusement centres; business premises; car parks; child care centres; community facilities; drainage; earthworks; educational establishments; entertainment facilities; environmental facilities; filming; flood mitigation works; food and drink premises; function centres; funeral chapels; funeral homes; health consulting rooms; hospitals; information and education facilities; kiosks; landscape and garden supplies; markets; medical centres; mixed use development; neighbourhood shops; office premises; passenger transport facilities; places of public worship; public administration buildings; pubs; recreation areas; recreation facilities (indoor); recreation facilities (major); recreation facilities (outdoor); registered clubs; restaurants; retail premises; roads; schools; service stations; shop top housing; signage; take away food and drink premises; temporary structures; tourist and visitor accommodation; veterinary hospitals.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone B2 Local Centre unless it is permitted by subclause (2) or (3).

### **11 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 enable development for the enjoyment of the community,
- (e) to ensure the vitality and safety of the community and public domain,
- (f) to promote landscaped areas to enhance the amenity of the area.

- (2) Development for any of the following purposes is permitted without development consent on land within Zone RE1 Public Recreation:

business identification signs; environmental protection works.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone RE1 Public Recreation:

boat launching ramps; boat repair facilities; boat sheds; building identification signs; car parks; caravan parks; cemeteries; child care centres; community facilities; drainage; earthworks; environmental facilities; filming; flood mitigation works; helipads; information and education facilities; kiosks; markets; public administration buildings; recreation areas; recreation facilities (indoor); recreation facilities (major); recreation facilities (outdoor); registered clubs; restaurants; roads; take away food or drink premises; water recreation structures.

- (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).

### **12 Zone E2 Environmental Conservation**

- (1) The objectives of Zone E2 Environmental Conservation are as follows:

- (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
- (b) to prevent development that could destroy, damage or otherwise have an adverse effect on those values.

- (2) Development for any of the following purposes is permitted without development



consent on land within Zone E2 Environmental Conservation:

environmental protection works.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E2 Environmental Conservation:

drainage; environmental facilities, filming; flood mitigation works; recreation areas; roads.

- (4) Development for any of the following purposes is prohibited on land within Zone E2 Environmental Conservation:

business premises; hotel or motel accommodation; industries; multi dwelling housing; recreation facilities (major); residential flat buildings; retail premises; seniors housing; service stations; warehouse or distribution centres; except as otherwise provided by this Part, any other development not specified in subclause (2) or (3).

### **13 Additional permitted uses for particular land**

- (1) Development for the purposes of bulky goods premises and timber and building supplies is permitted with consent on land in Zone B2 Local Centre and edged heavy black and hatched on the Additional Permitted Uses Map.
- (2) This clause has effect despite anything to the contrary in any other provision of this Part.

### **14 Subdivision consent requirements**

- (1) A subdivision of land within the Vincentia Coastal Village site, including a subdivision under the *Strata Schemes (Freehold Development) Act 1973*, the *Strata Schemes (Leasehold Development) Act 1986*, or the *Community Land Development Act 1989*, may be carried out 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 lots,
  - (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.

### **15 Exempt development**

- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
- (2) Development specified in Exempt and Complying Development Controls—Vincenia Coastal Village that meets the standards for the development contained in that document and that complies with the requirements of this Part is exempt development.
- (3) To be exempt development, the development:
  - (a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
  - (b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, and
  - (c) must not be designated development, and
  - (d) must not be carried out on land that comprises, or on which there is, an item that is listed on the State Heritage Register under the *Heritage Act 1977* or that is subject to an interim heritage order under the *Heritage Act 1977*, and
  - (e) must not be carried out in an environmentally sensitive area for exempt or complying development (as defined in clause 17).
- (4) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2–9 is exempt development only if:
  - (a) the building has a current fire safety certificate or fire safety statement, or
  - (b) no fire safety measures are currently implemented, required or proposed for the building.

### **16 Complying development**

- (1) The objective of this clause is to identify development as complying development.
- (2) Development specified in Exempt and Complying Development Controls—Vincenia Coastal Village that meets the standards for the development contained in that document and that is carried out in compliance with:
  - (a) the development standards specified in relation to that development, and

(b) the requirements of this Part,

is complying development.

(3) To be complying development, the development must:

(a) be permissible, with consent, in the zone in which it is carried out, and

(b) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and

(c) have an approval, if required by the *Local Government Act 1993*, from the Council for an on-site effluent disposal system if the development is undertaken on unsewered land.

(4) A complying development certificate for development specified as complying development is subject to the conditions (if any) set out in respect of that development in Exempt and Complying Development Controls—Vincentia Coastal Village.

#### **17 Environmentally sensitive areas excluded**

(1) Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.

(2) For the purposes of this clause:

***environmentally sensitive area for exempt or complying development*** means any of the following:

(a) the coastal waters of the State,

(b) a coastal lake,

(c) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies,

(d) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*,

(e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,

(f) land within 100 metres of land to which paragraph (c), (d) or (e) applies,

(g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,

(h) land reserved as a state conservation area under the *National Parks and Wildlife*

*Act 1974,*

- (i) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
- (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

## **18 Height of buildings**

- (1) The objectives of this clause are as follows:
  - (a) to ensure the scale and bulk of future development is compatible with the existing urban form and surrounding natural coastal bushland,
  - (b) to ensure that new buildings do not unreasonably affect the amenity of the environment,
  - (c) to maintain solar access to public reserves, roads and buildings on the site,
  - (d) to promote development that conforms to and reflects the natural land forms, by stepping development on sloping land to follow the natural gradient.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Building Height Map.

## **19 Gross floor area**

The total gross floor area of all buildings on land in Zone B2 Local Centre within the Vincentia Coastal Village site must not exceed 32,000 square metres.

## **20 Exceptions to development standards**

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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 (3), 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.
- (5) 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.
- (6) 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 (3).
- (7) This clause does not allow 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 \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,
  - (c) clauses 18, 19 or 23.

## 21 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).

<b>Type of land shown on Map</b>	<b>Authority of the State</b>
Zone RE1 Public Recreation and marked "Local open space"	Council

- (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.

**Note—**

If land, other than land specified in the table to subclause (2), is required to be acquired under the owner-initiated acquisition provisions, the Minister for Planning is required to take action to enable the designation of the acquiring authority under this Part. Pending the designation of the acquiring authority for that land, the acquiring authority is to be the authority determined by order of the Minister for Planning (see section 21 of the [Land Acquisition \(Just Terms Compensation\) Act 1991](#)).

## 22 Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land within the Vincentia Coastal Village site to be carried out in accordance with this Policy 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 Council or that the 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) Pursuant to section 28 of the Act, before the making of this clause, the Governor approved of subclauses (1)–(3).

### **23 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 3 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 60 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 80 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.

### **24 Development within the coastal zone**

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

(a) to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,

(b) to implement the principles in the NSW Coastal Policy, and in particular to:

(i) protect, enhance, maintain and restore the coastal environment, its associated

- ecosystems, ecological processes and biological diversity and its water quality, and
- (ii) protect and preserve the natural, cultural, recreational and economic attributes of the NSW coast, and
  - (iii) provide opportunities for pedestrian public access to and along the coastal foreshore, and
  - (iv) recognise and accommodate coastal processes and climate change, and
  - (v) protect amenity and scenic quality, and
  - (vi) protect and preserve rock platforms, beach environments and beach amenity, and
  - (vii) protect and preserve native coastal vegetation, and
  - (viii) protect and preserve the marine environment, and
  - (ix) ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and
  - (x) ensure that decisions in relation to new development consider the broader and cumulative impacts on the catchment, and
  - (xi) protect Aboriginal cultural places, values and customs, and
  - (xii) protect and preserve items of heritage, archaeological or historical significance.
- (2) Consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered:
- (a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:
    - (i) maintaining existing public access and, where possible, improving that access, and
    - (ii) identifying opportunities for new public access, and
  - (b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:
    - (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and



- (ii) the location, and
    - (iii) the bulk, scale, size and overall built form design of any building or work involved, and
  - (c) the impact of the proposed development on the amenity of the coastal foreshore including:
    - (i) any significant overshadowing of the coastal foreshore, and
    - (ii) any loss of views from a public place to the coastal foreshore, and
  - (d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and
  - (e) how biodiversity and ecosystems, including:
    - (i) native coastal vegetation and existing wildlife corridors, and
    - (ii) rock platforms, and
    - (iii) water quality of coastal waterbodies, and
    - (iv) native fauna and native flora, and their habitats, can be conserved, and
  - (f) the effect of coastal processes and coastal hazards and potential impacts, including sea level rise:
    - (i) on the proposed development, and
    - (ii) arising from the proposed development, and
  - (g) the cumulative impacts of the proposed development and other development on the coastal catchment.
- (3) Consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:
- (a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and
  - (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and
  - (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or

a rock platform.

## **25 Architectural roof features**

- (1) The objectives of this clause are:
  - (a) to ensure that architectural roof features to which this clause applies are decorative elements only and are consistent in form and scale with the surrounding natural coastal bushland, and
  - (b) to ensure that the majority of the roof features are contained within the prescribed building height.
- (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.

## **26 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 Council.

### **Note—**

A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, or location or in some 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 Council.
- (4) The refusal by the 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 Council to grant consent for the carrying out of the activity for which a permit was sought.
- (5) This clause does not apply to a tree or other vegetation that the 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 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 27 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 Act 2002*, or
  - (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

## **27 Heritage conservation**

- (1) A person must not, in respect of a building, work, relic, tree, site or place that is a heritage item:

- (a) demolish, dismantle, move or alter the building, work, relic, tree, site or place, or
  - (b) damage or remove the relic, or
  - (c) excavate land for the purpose of discovering, exposing or moving the relic, or
  - (d) damage or despoil the tree, site or place, or
  - (e) erect a building on, or subdivide, land on which the building, work or relic is situated or that comprises the site or place, or
  - (f) damage any tree or land on which the building, work or relic is situated or on the land which comprises the site or place, or
  - (g) make structural changes to the interior of the building or work,
- except with the consent of the consent authority.

(2) However, consent under this clause is not required if 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:

- (a) is of a minor nature, or is for the maintenance of the heritage item, and
- (b) would not adversely affect the significance of the heritage item.

## **28 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.

## **29 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, by or on behalf of a public authority, that is permitted to be carried out without consent 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.

**Note—**

As a consequence of the removal of the requirement for development consent under Part 4 of the Act, development by, or on behalf of, a public authority is subject to the environmental assessment and approval requirements of Part 5 of the Act or, if it is applicable, Part 3A of the Act.

## Part 30 UTS Ku-ring-gai Campus site

### Division 1 Preliminary

#### 1 Land to which Part applies

This Part applies to the land shown edged heavy red on the Land Application Map, referred to in this Part as the **UTS Ku-ring-gai Campus site**.

#### 2 Interpretation

(1) In this Part:

**Building Height Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)—UTS Ku-ring-gai Campus—Building Height Map*.

**Council** means the Ku-ring-gai Council.

**Heritage Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)—UTS Ku-ring-gai Campus—Heritage Map*.

**Land Application Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)—UTS Ku-ring-gai Campus—Land Application Map*.

**Land Zoning Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 30)—UTS Ku-ring-gai Campus—Land Zoning Map*.

(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 in the UTS Ku-ring-gai Campus site, other than development that is a project to which Part 3A of the Act applies, is the 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 Policy 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**

The only environmental planning instruments that apply according to their terms, to land within the UTS Ku-ring-gai Campus site are this Policy and all other State environmental planning policies except [State Environmental Planning Policy No 1—Development Standards](#).

## **Division 2 Provisions applying to development within UTS Ku-ring-gai Campus site**

### **6 Application of Part**

This Part applies with respect to development within the UTS Ku-ring-gai Campus site and so applies whether or not the development is a project to which Part 3A of the Act applies.

### **7 Land use zones**

- (1) For the purposes of this Part, land within the UTS Ku-ring-gai Campus site is in a zone as follows if the land is shown on the Land Zoning Map as being within that zone:
  - (a) Zone R1 General Residential,
  - (b) Zone R2 Low Density Residential,
  - (c) Zone B4 Mixed Use,
  - (d) Zone RE1 Public Recreation,
  - (e) Zone E1 National Parks and Nature Reserves,
  - (f) Zone E3 Environmental Management.
- (2) 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.

### **8 Zone R1 General Residential**

- (1) The objectives of Zone R1 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,
  - (d) to provide for development that is compatible with the environmental and heritage qualities of the locality,
  - (e) to promote a high standard of urban and architectural design of development,
  - (f) to promote the establishment of a sustainable community.
- (2) Development for any of the following purposes is permitted without consent in Zone R1 General Residential:
- home occupations; roads.
- (3) Development for any of the following purposes is permitted only with development consent in Zone R1 General Residential:
- attached dwellings; boarding houses; child care centres; community facilities; dwelling houses; group homes; hostels; multi dwelling housing; neighbourhood shops; places of public worship; residential flat buildings; residential care facilities; semi-detached dwellings; seniors housing; shop top housing.
- (4) Except as otherwise provided by this Policy, development is prohibited on land within Zone R1 General Residential unless it is permitted by subclause (2) or (3).

## **9 Zone R2 Low Density Residential**

- (1) The objectives of Zone R2 Low Density Residential are as follows:
- (a) to provide for the housing needs of the community within a low density residential environment,
  - (b) 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 consent in Zone R2 Low Density Residential:
- home occupations; roads.
- (3) Development for any of the following purposes is permitted only with development consent in Zone R2 Low Density Residential:
- dwelling houses; group homes.
- (4) Except as otherwise provided by this Policy, development is prohibited on land within Zone R2 Low Density Residential unless it is permitted by subclause (2) or (3).

## **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 so as to maximise public transport patronage and encourage walking and cycling and without adversely impacting on heritage items.
- (2) Development for any of the following purposes is permitted only with development consent in Zone B4 Mixed Use:

boarding houses; business premises; child care centres; community facilities; educational establishments; entertainment facilities; function centres; hotel or motel accommodation; information and education facilities; kiosks; neighbourhood shops; office premises; passenger transport facilities; recreation facilities (indoor); registered clubs; retail premises; roads; seniors housing; shop top housing.
- (3) Except as otherwise provided by this Policy, development is prohibited on land within Zone B4 Mixed Use unless it is permitted by subclause (2).

## **11 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.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone RE1 Public Recreation:

car parks; roads.
- (3) Development for any of the following purposes is permitted only with development consent in Zone RE1 Public Recreation:

kiosks; recreation areas.
- (4) Except as otherwise provided by this Policy, development is prohibited on land within Zone RE1 Public Recreation unless it is permitted by subclause (2) or (3).

## **12 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) Except as otherwise provided by this Policy, development is prohibited on land within Zone E1 National Parks and Nature Reserves unless it is permitted by subclause (2).

### **13 Zone E3 Environmental Management**

(1) The objectives of Zone E3 Environmental Management are as follows:

(a) to protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values,

(b) to provide for a limited range of development that 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 E3 Environmental Management:

environmental protection works.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone E3 Environmental Management:

dwelling houses; roads.

(4) Except as otherwise provided by this Policy, development for any of the following purposes is prohibited on land within Zone E3 Environmental Management:

industries; multi dwelling housing; residential flat buildings; retail premises; seniors housing; service stations; warehouse or distribution centres; any other development not specified in subclause (2) or (3).

### **14 Public utility undertakings excepted**

Development for the purpose of a public utility undertaking that is carried out on land within the UTS Ku-ring-gai Campus site does not require development consent.

#### **Note—**

As a consequence of the removal of the requirement from development consent under Part 4 of the Act, development for the purposes of public utility undertakings is subject to the environmental assessment and approval requirements of Part 5 of the Act or, if it is applicable, Part 3A of the Act.

## **15 Exempt and complying development**

Development within the UTS Ku-ring-gai Campus site that satisfies the requirements for exempt development or complying development specified in *Ku-ring-gai Development Control Plan No 46—Exempt and Complying Development*, adopted by the Council on 16 November 1999, is exempt development or complying development, as appropriate.

## **16 Exceptions to development standards**

(1) 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.

(2) 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.

(3) 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.

(4) 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 (3), 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.

(5) 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.
- (6) 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 (3).
- (7) This clause does not allow 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 \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated.

#### **17 Height of buildings**

- (1) The objectives of this clause are as follows:
- (a) to protect the heritage significance of the UTS Ku-ring-gai Campus main building,
  - (b) to protect the views to the UTS Ku-ring-gai Campus main building.
- (2) The height of a building on any land within the UTS Ku-ring-gai Campus site is not to exceed the maximum height shown for the land on the Building Height Map.

#### **18 Maximum number of dwellings**

The consent authority must not grant development consent for the erection of a dwelling on land within the UTS Ku-ring-gai Campus site if the number of dwellings within that site would exceed 345.

#### **19 Controls relating to miscellaneous permissible uses**

- (1) **Kiosks** If development for the purposes of a kiosk is permitted under this Part, the gross floor area must not exceed 40 square metres.
- (2) **Neighbourhood shops** If development for the purposes of a neighbourhood shop is permitted under this Part, the gross floor area must not exceed 80 square metres.
- (3) **Retail premises** If development for the purposes of retail premises is permitted under this Part, the gross floor area must not exceed 80 square metres.

## 20 Heritage conservation

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item:
  - (a) demolish, dismantle, move or alter the building, work, relic, tree or place, or
  - (b) damage or remove the relic, or
  - (c) excavate land for the purpose of discovering, exposing or moving the relic, or
  - (d) damage or despoil the tree or place, or
  - (e) erect a building on, or subdivide, land on which the building, work or relic is situated or that comprises the place, or
  - (f) damage any tree or land on which the building, work or relic is situated or on the land which comprises the place, or
  - (g) make structural changes to the interior of the building or work,except with the consent of the consent authority.
- (2) 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.
- (3) Consent is not required under this clause if 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:
  - (a) is of a minor nature, or is for the maintenance of the heritage item, and

(b) would not adversely affect the significance of the heritage item.

(4) In this clause, **heritage item** means the building known as the UTS Ku-ring-gai Campus main building, excluding the gymnasium, as shown on the Heritage Map.

## 21 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.

# Part 33 Southern Highlands Regional Shooting Complex site

## Division 1 Preliminary

### 1 Land to which Part applies

This Part applies to the land shown edged heavy red on the [Land Application Map](#), referred to in this Schedule as the **Southern Highlands Regional Shooting Complex site**.

### 2 Interpretation

(1) In this Part:

**Council** means the Wingecarribee Shire Council.

**Land Application Map** means the [State Environmental Planning Policy \(Major Projects\) 2005 \(Amendment No 33\) Southern Highlands Regional Shooting Complex—Land Application Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Projects\) 2005 \(Amendment No 33\) Southern Highlands Regional Shooting Complex—Land Zoning Map](#).

**shooting range** means an area for firearm shooting competition, training or practice.

**support infrastructure** means a building, work or associated infrastructure used for the purpose of a club house, administration, grounds maintenance, car parking, site utility or environmental protection.

(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 in the Southern Highlands Regional

Shooting Complex site, other than development that is a project to which Part 3A of the Act applies, is the 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**

The only environmental planning instruments that apply, according to their terms, to land within the Southern Highlands Regional Shooting Complex site are this Policy and all other State environmental planning policies except [State Environmental Planning Policy No 1—Development Standards](#).

### **Division 2 Provisions relating to development within Southern Highlands Regional Shooting Complex site**

#### **6 Application of Division**

- (1) This Division applies to development on land in the Southern Highlands Regional Shooting Complex site, except as provided by subclause (2).
- (2) Clauses 8, 9, 10, 15, 16 and 17 do not apply to development within the Southern Highlands Regional Shooting Complex site 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 in the Southern Highlands Regional Shooting Complex site is in a zone as follows if the land is shown on the [Land Zoning Map](#) as being within that zone:

- (a) Zone SP1 Special Activities,
- (b) Zone E2 Environmental Conservation.

## **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.

## **9 Zone SP1 Special Activities**

(1) The objectives of Zone SP1 Special Activities are as follows:

- (a) to provide for special land uses that are not provided for in other zones,
- (b) to provide for sites with special natural characteristics that are not provided for in other zones,
- (c) to facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land,
- (d) to facilitate development for the purpose of a shooting complex, including the shooting ranges and support infrastructure,
- (e) to prevent development that could have an adverse effect on a shooting complex, including the shooting ranges and support infrastructure.

(2) Development for the following purpose is permitted without development consent on land within Zone SP1 Special Activities:

environmental protection works.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone SP1 Special Activities:

the purpose shown on the [Land Zoning Map](#), including any development that is ordinarily incidental or ancillary to development for that purpose; drainage.

(4) Except as otherwise provided by this Division, development is prohibited on land within Zone SP1 Special Activities unless it is permitted by subclause (2) or (3).

## **10 Zone E2 Environmental Conservation**

(1) The objectives of Zone E2 Environmental Conservation are as follows:

- (a) to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values,
- (b) to prevent development that could destroy, damage or otherwise have an adverse

effect on those values.

- (2) Development for the following purpose is permitted without development consent on land within Zone E2 Environmental Conservation:

environmental protection works.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E2 Environmental Conservation:

drainage; environmental facilities; roads.

- (4) Except as otherwise provided by this Division, development for the following purposes is prohibited on land within Zone E2 Environmental Conservation:

business premises; hotel or motel accommodation; industries; multi dwelling housing; recreation facilities (major); residential flat buildings; retail premises; seniors housing; service stations; warehouse or distribution centres; any other development not specified in subclause (2) or (3).

### **11 Prohibited development**

Development, other than development that is permitted with or without consent on land within a zone, is prohibited on land within that zone.

### **12 Infrastructure development and use of existing buildings of the Crown**

- (1) This Division does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out without consent under the [State Environmental Planning Policy \(Infrastructure\) 2007](#).
- (2) This Division does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

### **13 Height of buildings**

The height of a building on land in the Southern Highlands Regional Shooting Complex site is not to exceed 9 metres.

### **14 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 within the Southern Highlands Regional Shooting Complex 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

(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.

### **15 Exceptions to development standards—other development**

(1) This clause applies to development, 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) 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) 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) 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) 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).
- (8) This clause does not allow consent to be granted for development that would contravene a development standard for complying development.

## **16 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.

## **17 Exempt and complying development**

Development on land in the Southern Highlands Regional Shooting Complex site that satisfies the requirements for exempt development or complying development specified in [Wingecarribee Local Environmental Plan 1989](#), is exempt development or complying development.

# **Part 34 Huntlee New Town 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 Schedule as the **Huntlee New Town site**.

## 2 Interpretation

(1) In this Part:

**consent authority** means the relevant council.

**Land Application Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 35)—Huntlee New Town Site—Land Application Map*.

**Land Reservation Acquisition Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 35)—Huntlee New Town Site—Land Reservation Acquisition Map*.

**Land Zoning Map** means the *State Environmental Planning Policy (Major Projects) 2005 (Amendment No 35)—Huntlee New Town Site—Land Zoning Map*.

**relevant Council:**

- (a) in relation to development of land within the local government area of Cessnock City, means Cessnock City Council, or
- (b) in relation to development of land within the local government area of Singleton, means Singleton Shire Council.

(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 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.

#### **4 Relationship with other environmental planning instruments**

The only environmental planning instruments that apply, according to their terms, to or in respect of development within the Huntlee New Town site are as follows:

- (a) this Policy,
- (b) all other State environmental planning policies otherwise applicable to the land, except *State Environmental Planning Policy No 1—Development Standards*.

### **Division 2 Provisions relating to development within Huntlee New Town site**

#### **5 Application of Division**

- (1) This Division applies to development on land within the Huntlee New Town site, except as provided by subclause (2).
- (2) Clauses 7–13, 16, 18 and 21–25 do not apply to development within the Huntlee New Town site to the extent that it is a project to which Part 3A of the Act applies.

#### **6 Land use zones**

For the purposes of this Part, land within the Huntlee New Town site is in a zone as follows if the land is shown on the Land Zoning Map as being within that zone:

- (a) Zone R1 General Residential,
- (b) Zone R5 Large Lot Residential,
- (c) Zone B4 Mixed Use,
- (d) Zone SP2 Infrastructure,
- (e) Zone RE1 Public Recreation,
- (f) Zone E1 National Parks and Nature Reserves.

#### **7 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.

#### **8 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 consent on land within Zone R1 General Residential:

environmental protection works; home occupations; roads constructed or operated by or on behalf of a public authority.

(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; educational establishments; exhibition villages; group homes; hostels; multi dwelling housing; neighbourhood shops; places of public worship; recreation facilities (outdoor); residential care facilities; residential flat buildings; roads; semi-detached dwellings; seniors housing; shop top housing.

(4) Except as otherwise provided by this Policy, development is prohibited on land within Zone R1 General Residential unless it is permitted by subclause (2) or (3).

## **9 Zone R5 Large Lot Residential**

(1) The objectives of Zone R5 Large Lot Residential are as follows:

(a) to provide residential housing in a rural setting while preserving environmentally sensitive locations and scenic quality,

(b) to ensure that large residential allotments do not hinder the proper and orderly development of urban areas in the future,

(c) to ensure that development in the area does not unreasonably increase the demand for public services or public facilities,

(d) to minimise conflict between land uses within the zone and adjoining zones,

(e) to enable land to be used for public open space or recreational purposes,

(f) to protect the natural environment for recreational purposes.

(2) Development for any of the following purposes is permitted without consent on land within Zone R5 Large Lot Residential:

environmental protection works; roads constructed or operated by or on behalf of a public authority.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone R5 Large Lot Residential:

dwelling houses; environmental facilities; environmental protection works; home

occupations; recreation areas; roads.

- (4) Except as otherwise provided by this Policy, development is prohibited on land within Zone R5 Large Lot Residential unless it is permitted by subclause (2) or (3).

#### **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 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 consent on land within Zone B4 Mixed Use:

environmental protection works; roads constructed or operated by or on behalf of a public authority.

- (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; car parks; child care centres; community facilities; educational establishments; entertainment facilities; food and drink premises; function centres; health service facilities; highway service centres; hotel or motel accommodation; information and education facilities; light industries; markets; multi dwelling housing; office premises; passenger transport facilities; places of public worship; recreation facilities (indoor); recreation facilities (outdoor); registered clubs; residential flat buildings; retail premises; roads; seniors housing; shop top housing; tourist and visitor accommodation.

- (4) Except as otherwise provided by this Policy, development is prohibited on land within Zone B4 Mixed Use unless it is permitted by subclause (2) or (3).

#### **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.

- (2) Development for any of the following purposes is permitted without consent on land within Zone SP2 Infrastructure:

roads.

- (3) Development for any of the following purposes is permitted only with development

consent on land within Zone SP2 Infrastructure:

schools; the purpose shown on the Land Zoning Map including any development that is ordinarily incidental or ancillary to development for that purpose.

- (4) Except as otherwise provided by this Policy, 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.

- (2) Development for any of the following purposes is permitted without consent on land within Zone RE1 Public Recreation:

roads.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone RE1 Public Recreation:

environmental facilities; environmental protection works; kiosks; recreation areas.

- (4) Except as otherwise provided by this Policy, 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*,
- (b) to enable uses authorised under the *National Parks and Wildlife Act 1974*.

- (2) Development for any of the following purposes is permitted without 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 Policy, development is prohibited on land within Zone E1 National Parks and Nature Reserves unless it is permitted by subclause (2) or (3).

#### **14 Prohibited development**

Development, other than development that is permitted with or without consent on land within a zone, is prohibited on land within that zone.

#### **15 Interim land uses**

- (1) Despite any other provision of this Part, development on land within the Huntlee New Town site for the purposes specified in subclause (2) is permitted with consent and is not prohibited under clause 14 if:
  - (a) the development is for a specified interim period, and
  - (b) the development will not adversely affect the use of the land for permissible development in accordance with this Part at the end of the specified interim period, and
  - (c) the development will not adversely affect the use of other land in the same locality for permissible development in accordance with this Part.
- (2) Development specified for the purposes of this clause is any one or more of the following:
  - (a) extensive agriculture,
  - (b) extractive industries,
  - (c) farm forestry,
  - (d) intensive plant agriculture,
  - (e) mining.

#### **16 Subdivision—consent requirements**

- (1) Land within the Huntlee New Town 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) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,



- (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional buildings,
- (d) a consolidation of lots that does not create additional lots or the opportunity for additional buildings,
- (e) rectifying an encroachment on a lot,
- (f) creating a public reserve,
- (g) 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 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 within the Huntlee New Town 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
  - (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.

#### **18 Exceptions to development standards—other development**

- (1) This clause applies to development, 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) 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) 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) 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) 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).
- (8) This clause does not allow 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 Index: BASIX) 2004* applies or for the land on which such a building is situated.

### **19 Maximum number of dwellings**

A person must not erect a dwelling on land within the Huntlee New Town site if, as a result, the number of dwellings within that site would exceed 7,500.

### **20 Arrangements for designated State public infrastructure for Zones R1 General Residential and B4 Mixed Uses**

- (1) This clause applies to land in Zone R1 General Residential or Zone B4 Mixed Uses within the Huntlee New Town site, but does not apply to any such land if the whole or any part of it is in a special contributions area (as defined by section 93C of the Act).
- (2) The objective of this clause is to require satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land to which this clause applies to satisfy needs that arise from development on the land, but only if the land is developed intensively for urban purposes.
- (3) Land to which this clause applies must not be subdivided if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the commencement of this Part, unless the Director-General has certified in writing that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.
- (4) Subclause (3) does not apply in relation to:
  - (a) any lot identified in the certificate as a residue lot, or
  - (b) any lot created by a previous subdivision of land in accordance with this clause, or
  - (c) any lot that is proposed to be reserved or dedicated for public open space, public roads, public utilities, educational facilities, or any other public purpose, or
  - (d) a subdivision for the purpose only of rectifying an encroachment on any existing lot.
- (5) In this clause, **designated State public infrastructure** means public facilities or services that are provided or financed by the State (or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State) of the following kinds:
  - (a) State and regional roads,
  - (b) bus interchanges, bus services and bus lanes,

- (c) rail infrastructure and land,
- (d) land required for regional open space,
- (e) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

## **21 Public utility infrastructure**

- (1) Development consent must not be granted for development on land within the Huntlee New Town 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) In this clause, **public utility infrastructure** includes infrastructure for any of the following:
  - (a) the supply of water,
  - (b) the supply of electricity,
  - (c) the supply of natural gas,
  - (d) the disposal and management of sewage.
- (3) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.

## **22 Infrastructure development and the use of existing buildings of the Crown**

- (1) This Division does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out without consent under [State Environmental Planning Policy \(Infrastructure\) 2007](#).
- (2) This Division does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

## **23 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.

## 24 Exempt and complying development

Development within the Huntlee New Town site that satisfies the requirements for exempt development or complying development specified in *State Environmental Planning Policy No 60—Exempt and Complying Development*, is exempt development or complying development, as appropriate.

## 25 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 coloured yellow 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 Land Reservation Acquisition Map

### Authority of the State

Zone E1 National Parks and Nature Reserves

Minister administering the *National Parks and Wildlife Act 1974*

- (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.

### Note—

If land, other than land specified in the Table to subclause (2), is required to be acquired under the owner-initiated acquisition provisions, the Minister for Planning is required to take action to enable the designation of the acquiring authority under this clause. Pending the designation of the acquiring authority for that land, the acquiring authority is to be the authority determined by order of the Minister for Planning (see section 21 of the *Land Acquisition (Just Terms Compensation) Act 1991*).

## 26 Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land in the Huntlee New Town site to be carried out in accordance with this Policy or with a development 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.

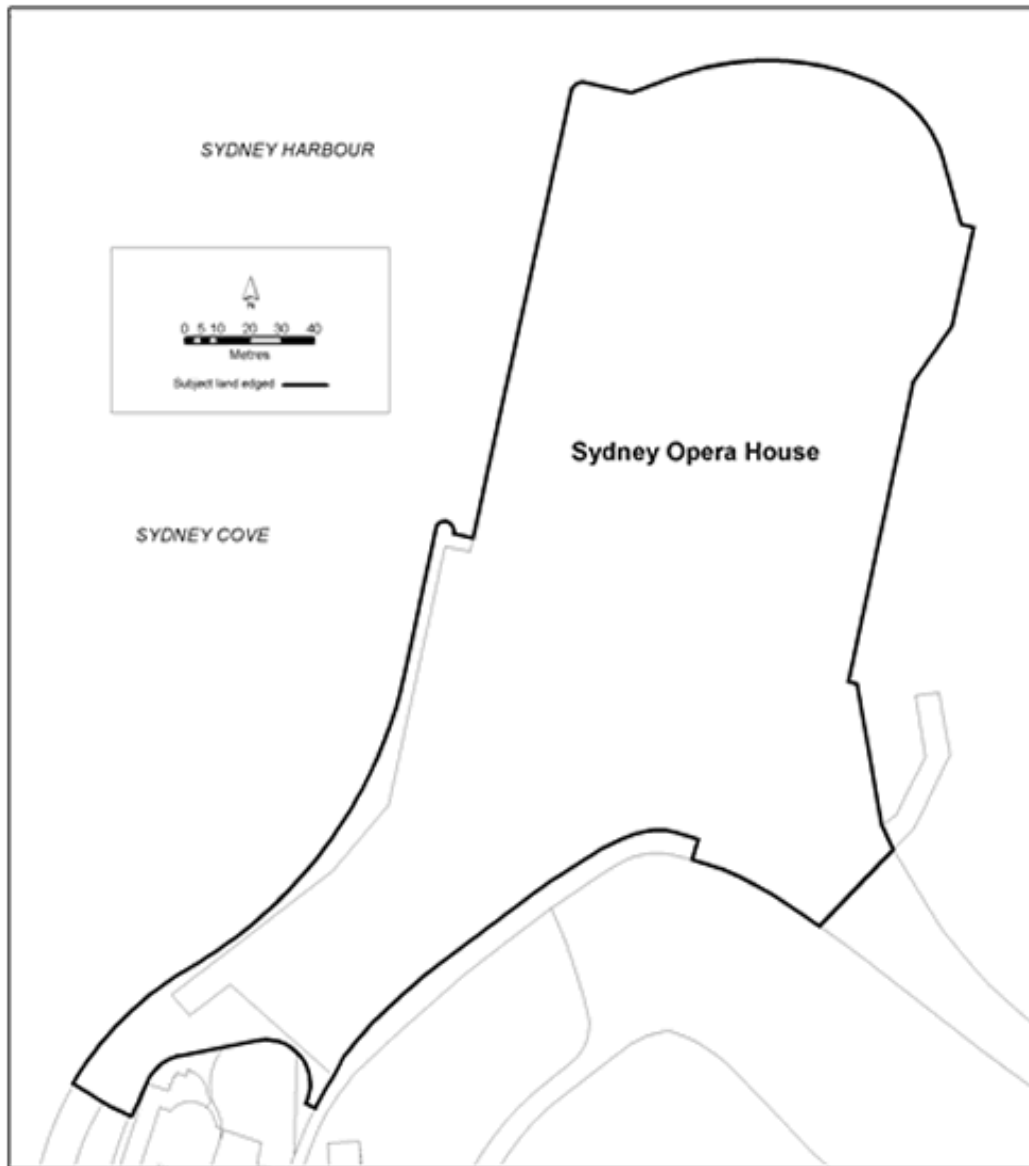
(2) This clause does not apply:

- (a) to a covenant imposed by Cessnock City Council or Singleton Shire Council or that either of those councils 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*.

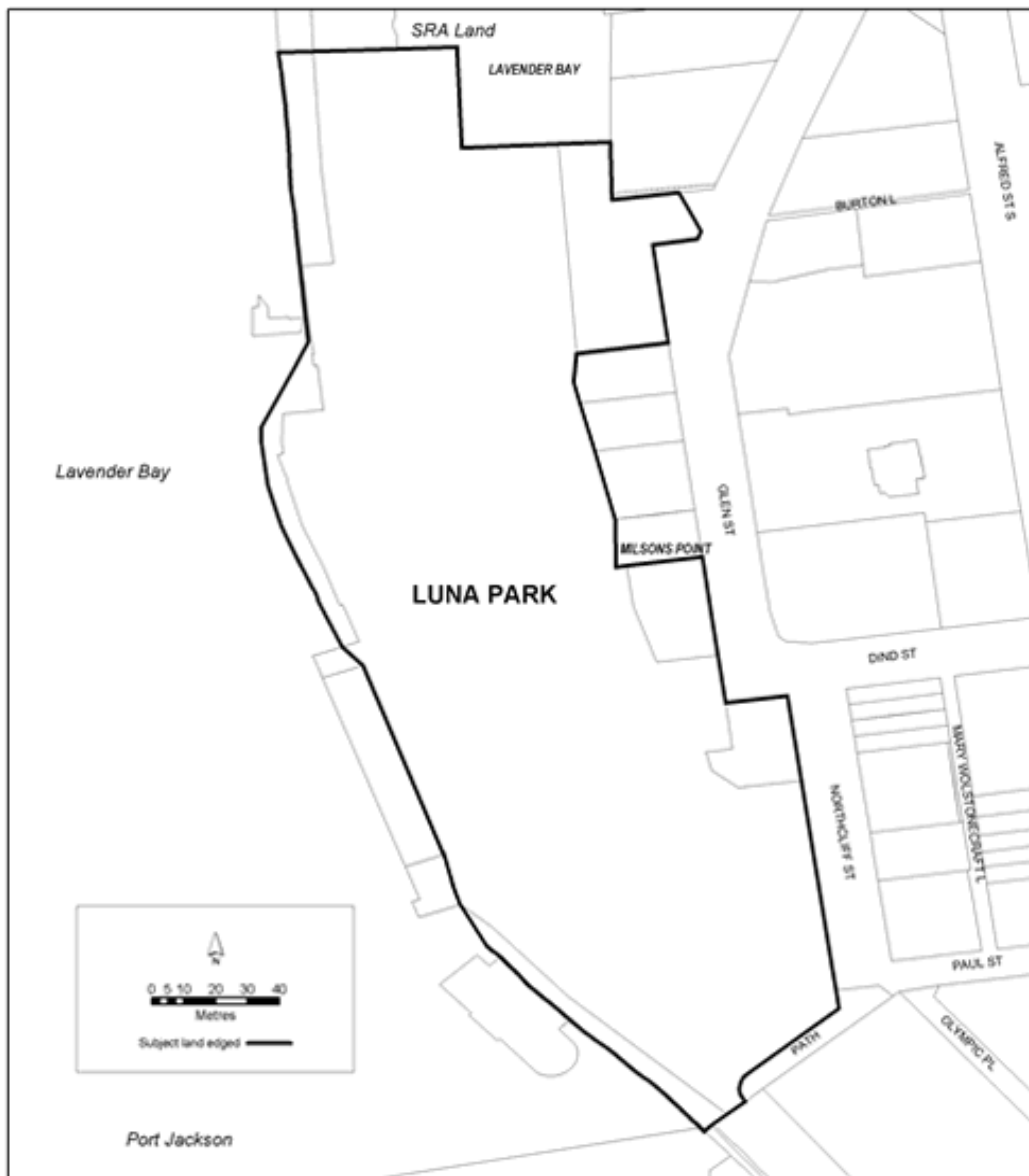
(3) This clause does not affect the rights or interests of any public authority under any registered instrument.

(4) Pursuant to section 28 of the Act, before the making of this clause, the Governor approved of subclauses (1)–(3).

**Map 1—Schedule 3—Sydney Opera House**

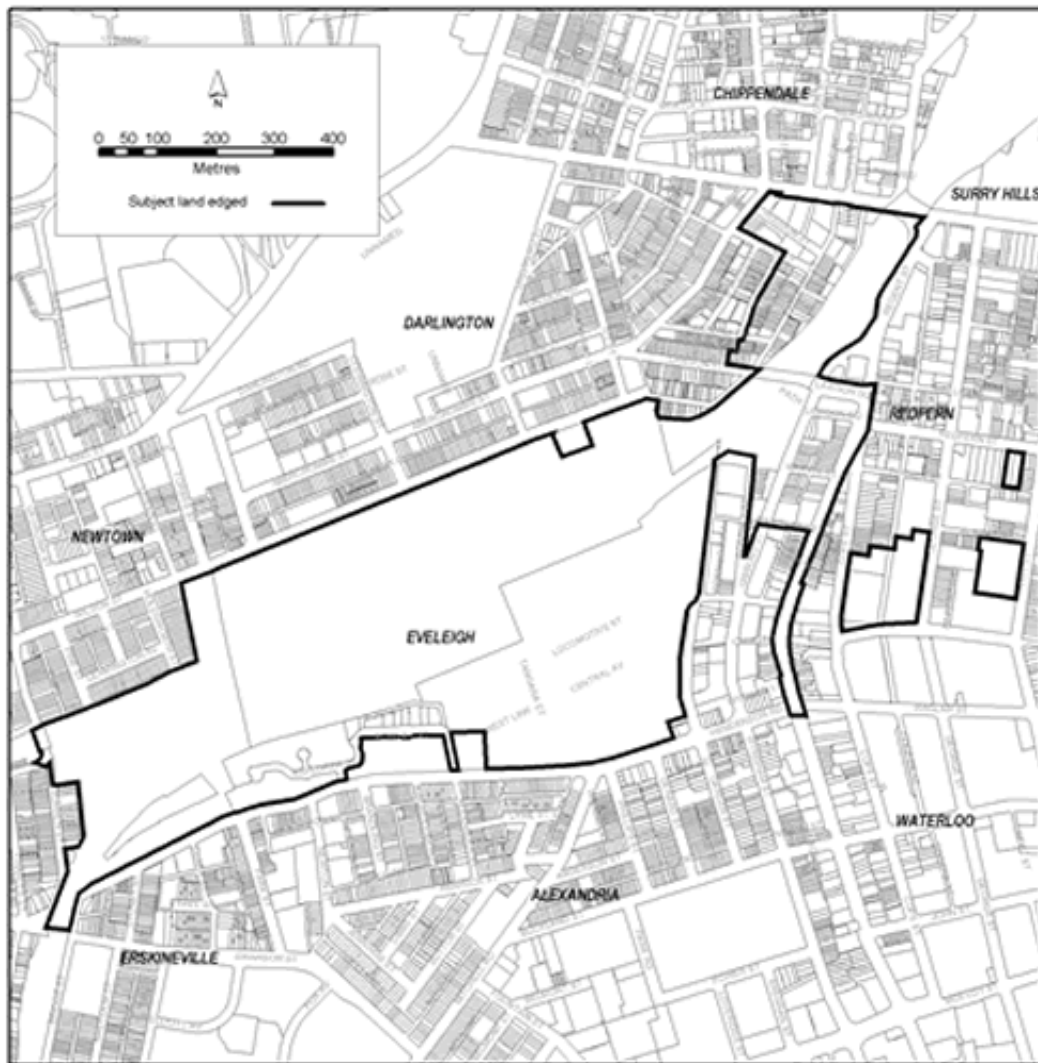


**Map 2—Schedule 3—Luna Park**

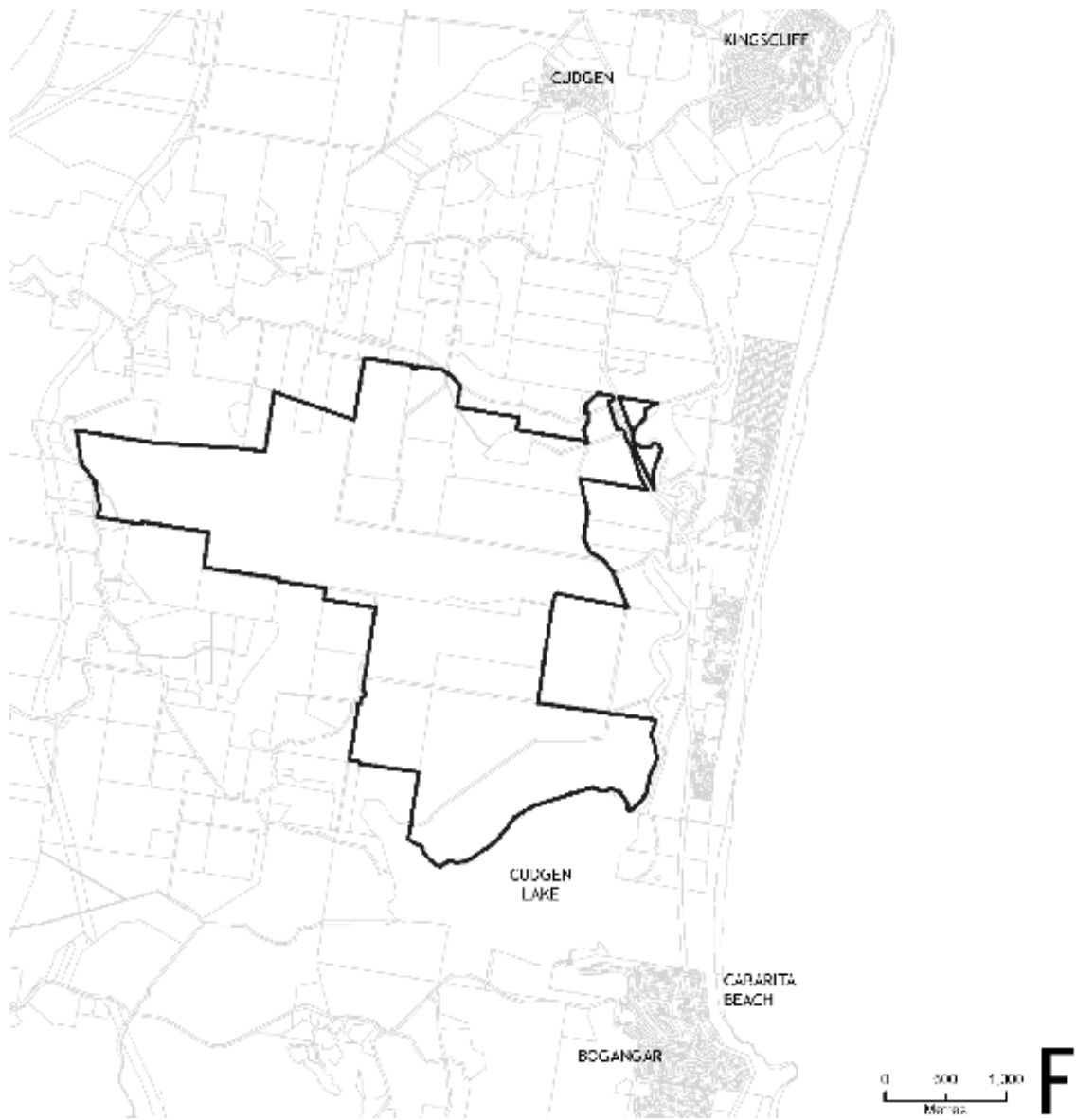


**Map 3—Schedule 3—Redfern-Waterloo Authority Sites**

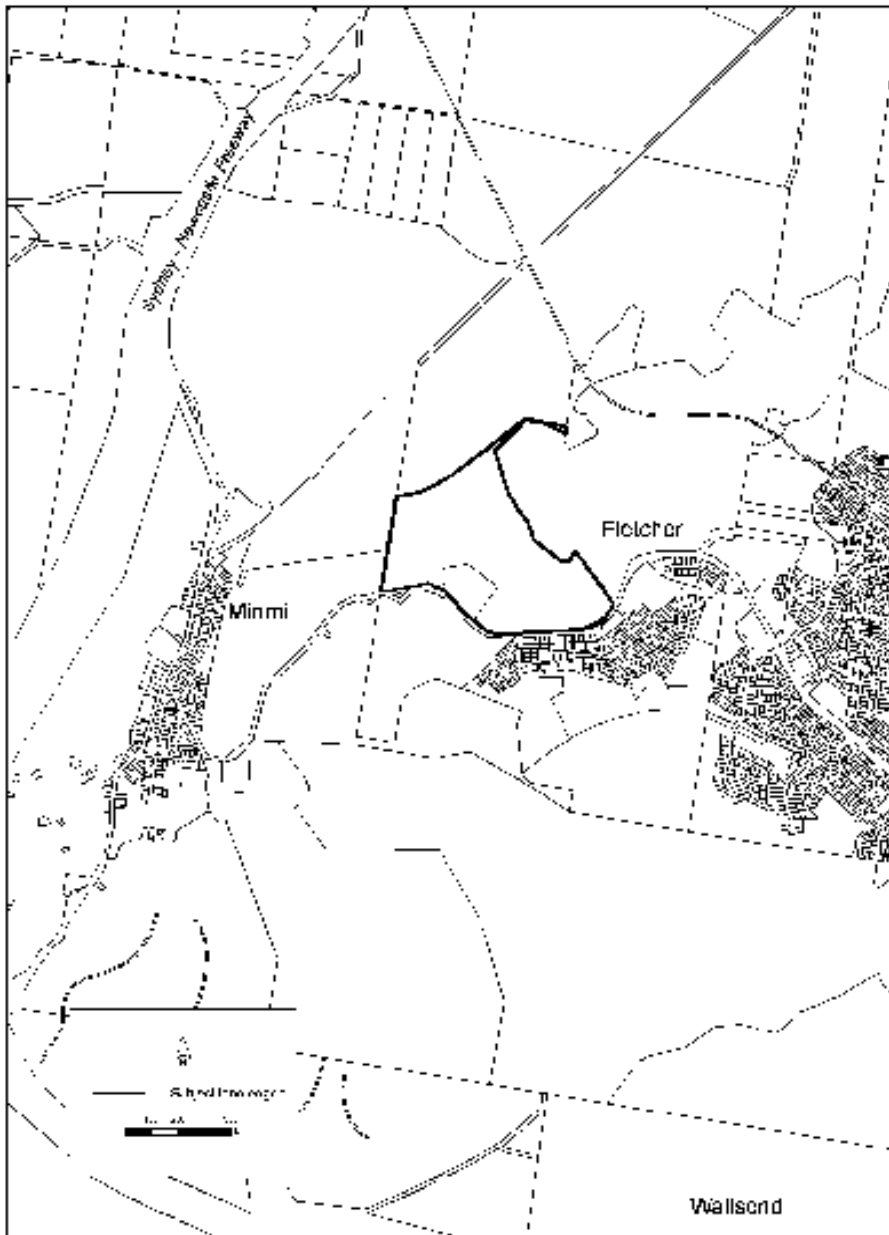




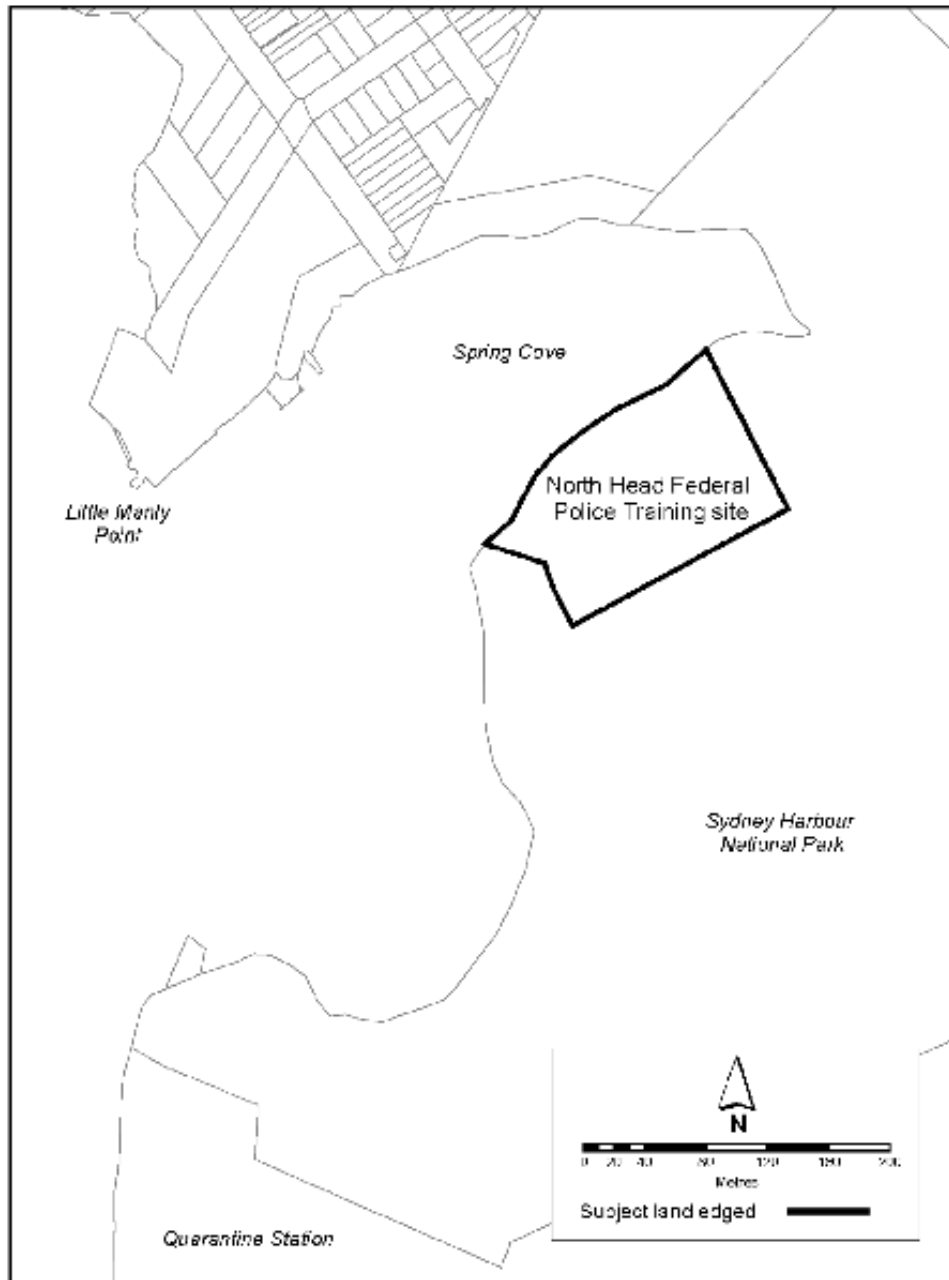
**Map 4—Schedule 3—Kings Forest**



**Map 5—Schedule 3—The Dan Land**



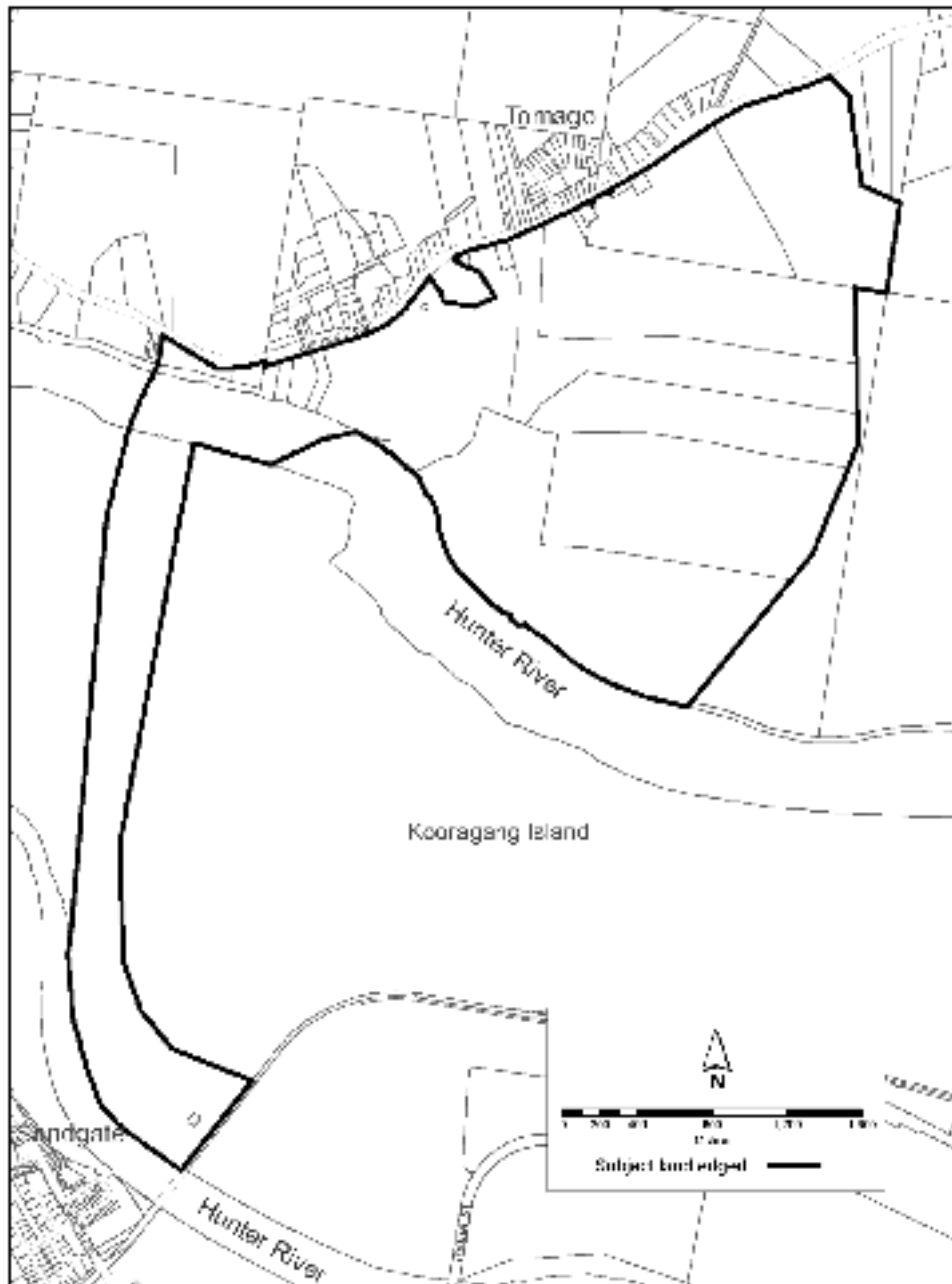
**Map 6—Schedule 3—North Head Federal Police Training site**



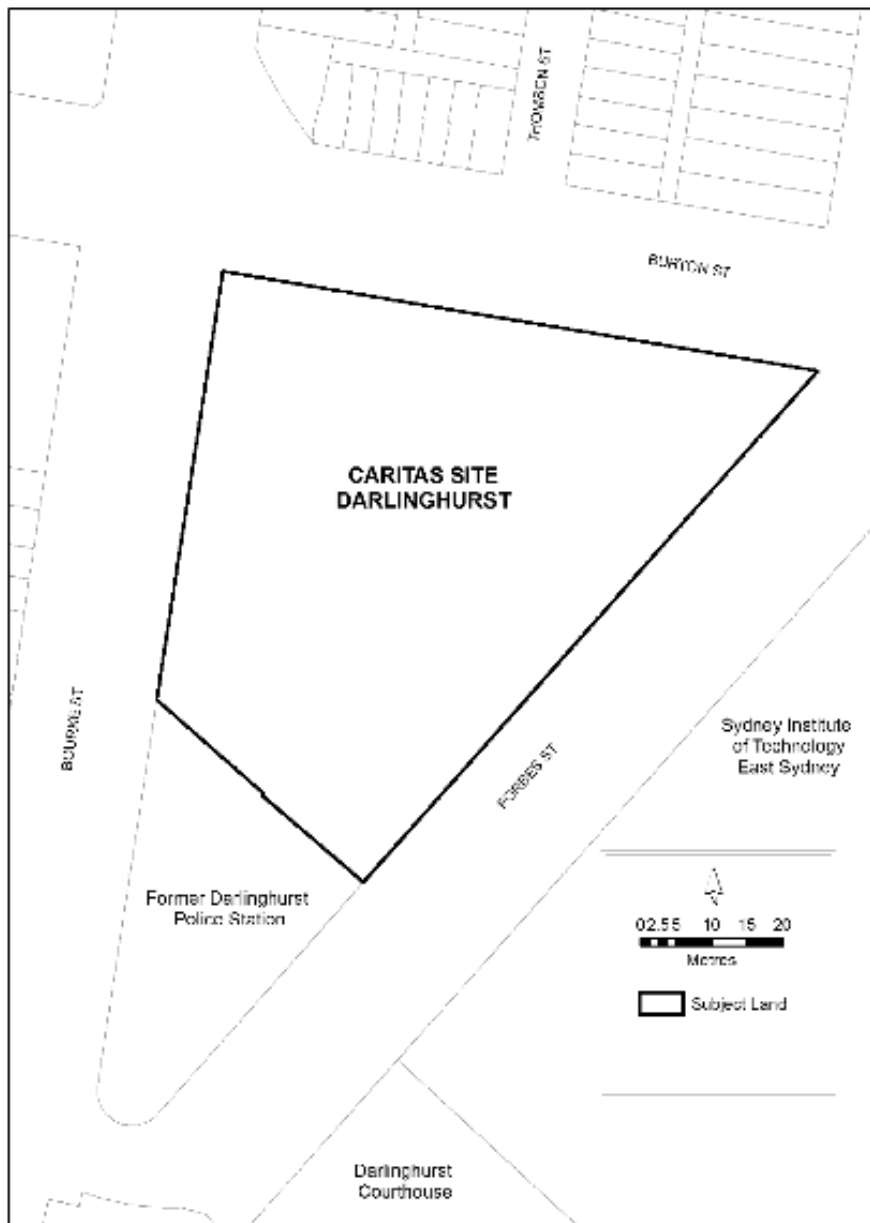
**Map 7—Schedule 3—Huntingwood West Precinct**



**Map 8—Schedule 3—Tomago Industrial site**



**Map 9—Schedule 3—Caritas site**



**Map 10—Schedule 3—Barangaroo site**





(2) This clause does not apply to development for the purposes of a pilot desalination plant on the Kurnell Peninsula.

(3) In this clause:

**desalination plant** means a plant used to obtain drinking water from seawater, and includes:

- (a) inlet and outlet pipelines to draw seawater into the plant and return seawater concentrate to the ocean (including tunnelling under Botany Bay National Park), and
- (b) pipelines from the plant across Botany Bay to the Sydney Water Corporation water supply system for the distribution of drinking water (including tunnelling under Botany Bay), and
- (c) pipelines from the plant to Miranda water supply system for the distribution of drinking water, and
- (d) the connection of the plant to the electricity grid, and
- (e) temporary laydown areas for construction use.

## 2 Royal North Shore Hospital redevelopment site

(1) In this clause:

**RNSH redevelopment site** means the land comprising the following:

- (a) lots 21 and 22, DP 863329,
  - (b) lot 102, DP 1075748.
- (2) Development for the purposes of redeveloping the RNSH redevelopment site, including development for any of the following purposes:
- (a) refurbishing or replacing the main hospital buildings and emergency service facilities,
  - (b) commercial premises along Herbert Street providing community health and primary care services and research and education facilities,
  - (c) other commercial uses (including for research and technology purposes),
  - (d) vehicular and pedestrian access to and from, and within, the site (including direct pedestrian access to St Leonards Station),
  - (e) accommodation for people receiving acute medical or other health-related services,

- (f) retail and residential uses.

### **3 Liverpool Hospital redevelopment site**

- (1) In this clause:

***Liverpool Hospital redevelopment site*** means the land comprising the following:

- (a) lots 1, 2 and 3, DP 827031,
  - (b) lots 1, 3 and 101, and part lot 2, DP 596770,
  - (c) lot 2, DP 805696,
  - (d) lot 1, DP 863491,
  - (e) lot 1, DP 581947,
  - (f) lot A, DP 432628,
  - (g) lots A and B, DP 404723,
  - (h) lot 1, DP 724028,
  - (i) lots 2 to 13 (inclusive), DP 758620,
  - (j) part of the main southern railway line,
  - (k) Hart Street, and part of Lachlan Street, Liverpool.
- (2) Development for the purposes of redeveloping the Liverpool Hospital redevelopment site, including development for any of the following purposes:
    - (a) hospital services, including refurbishing and expanding the hospital buildings and facilities,
    - (b) research and educational facilities,
    - (c) accommodation for students, nursing and medical staff and patients' relatives,
    - (d) pedestrian access to and from, and within, the site,
    - (e) internal and access roads,
    - (f) landscaping.

### **4 Queensland-Hunter Gas Pipeline**

Development for the purposes of a high pressure natural gas transmission pipeline from the Walumbilla Gas Hub in South Central Queensland to connect with the Sydney to Newcastle pipeline near Newcastle in New South Wales, including development for any of

the following purposes:

- (a) the construction of pigging stations, valve stations, and connection points to other pipelines and facilities,
- (b) the construction of a secondary pipeline that will branch off the main pipeline in the local government area of Maitland,
- (c) the erection of perimeter security fences, security and service lighting and signage,
- (d) the installation of communication and telemetry towers,
- (e) the installation of cathodic protection devices,
- (f) excavation, drilling, interim spoil storage, spoil replacement or disposal and site remediation,
- (g) erosion and sediment control works,
- (h) the construction of pipeline corridor access tracks,
- (i) river and creek crossings,
- (j) road and railway crossings,
- (k) temporary fencing around work sites and open excavations,
- (l) transportation and temporary storage of pipes and associated equipment by road or rail,
- (m) the establishment and removal of construction camps,
- (n) the provision and disposal of water for pipeline hydrostatic testing.

## **5 Tillegra Dam**

Development carried out by or on behalf of the Hunter Water Corporation for the purposes of a water storage facility with a capacity of approximately 450 gigalitres on the Upper Williams River in the Hunter Region, including development for any of the following purposes:

- (a) a dam wall,
- (b) a reservoir,
- (c) a spillway,
- (d) a multiple-level water offtake tower,
- (e) a trunk water-main,

- (f) associated water supply infrastructure,
- (g) a hydropower generation plant,
- (h) other ancillary works (such as buildings for the purposes of recreational access areas or lookouts and related facilities),
- (i) the relocation and reconstruction of Salisbury Road (including by the construction of waterway crossings) and the provision of alternative access currently provided by Quart Pot Creek Road,
- (j) the relocation or reconstruction of other public infrastructure (including a fire station and telecommunication and electrical transmission lines),
- (k) the conservation of places and buildings of heritage significance.

## **Schedule 6 Minister consent authority for Part 4 development**

(Clause 9A)

### **Part 1 Development for which Minister consent authority**

#### **1 Sydney Harbour Foreshore Sites**

- (1) Development (with a capital investment value of not more than \$5 million) in an area identified on Map 9 to Schedule 2, if the development:
  - (a) requires an approval (that has not already been obtained) under section 57 of the *Heritage Act 1977*, or
  - (b) does not comply with the approved scheme within the meaning of clause 27 of Schedule 6 to the Act.
- (2) Development (with a capital investment value of not more than \$5 million) within the area identified on Map 2 to Schedule 3.
- (3) Development (with a capital investment value of not more than \$5 million) within the area identified on Map 10 to Schedule 3.

**Note—**

Development controls in relation to the Barangaroo site for development under Part 4 of the Act are contained in Part 12 of Schedule 3.

#### **2 Redfern-Waterloo Authority Sites**

Development (with a capital investment value of not more than \$5 million) within the area identified on Map 3 to Schedule 3.

**Note—**

Development controls in relation to the Redfern-Waterloo Authority Sites for development under Part 4 of the Act are contained in Part 5 of Schedule 3.

### 3 Sydney Olympic Park

Development (with a capital investment value of not more than \$5 million) within the area described in Schedule 1 to the [Sydney Olympic Park Authority Act 2001](#).

### 4 Port and related employment lands

- (1) **Botany** Development within the area identified on Map 5 to Schedule 2, being development with a capital investment value of not more than \$5 million that is carried out by a person other than a public authority.
- (2) **Sydney Harbour** Development within the area identified as Glebe Island, White Bay, Rozelle Bay and Blackwattle Bay on Maps 6A and 6B to Schedule 2, being development with a capital investment value of not more than \$5 million that is carried out by a person other than a public authority.

### 5 Sydney Cricket Ground

Development in that part of the area identified on Map 8 to Schedule 2 that is land described in Part 1 of Schedule 2 to the [Sydney Cricket and Sports Ground Act 1978](#), being:

- (a) development that has a capital investment value of not more than \$5 million, or
- (b) development for the purpose of a non-sporting event (such as a concert).

## Part 2 Additional provisions for the Luna Park site

### 1 Definition

In this Part, **Luna Park site** means the land described in Map 2 to Schedule 3.

### 2 Development near the intersection of Glen and Dind Streets, North Sydney

- (1) This clause applies to land in the cliff top area, near the intersection of Glen and Dind Streets, North Sydney, being such part of Lot 1 DP 1066900 as comprises former Lots 1259 and 1260 DP 48514 (**the cliff top sites**).
- (2) This clause applies to development that is not a project to which Part 3A of the Act applies.
- (3) Development may be carried out on the cliff top sites, but only with development consent, for any purpose that is an authorised use under section 6C of the [Luna Park Site Act 1990](#) in relation to the cliff top area.
- (4) Any building on the cliff top sites:
  - (a) must not exceed:
    - (i) in the case of a building on land comprising former Lot 1259 DP48514, 44.8

metres in height above Australian Height Datum, or

(ii) in the case of a building on land comprising former Lot 1260 DP48514, 31.5 metres in height above Australian Height Datum, and

(b) must not encroach on land beneath the canopy of any heritage fig tree.

(5) Any building on land comprising former Lot 1259 DP48514, and any parking space on that land, must be set back at least 6 metres from the northern boundary of that land.

(6) Subclause (5) does not prevent the erection, within 6 but no closer than 1.7 metres of the northern boundary, of any structure to facilitate vehicular access to parking spaces within the building.

(7) Development consent must not be granted to the erection of any building on the cliff top sites unless:

(a) the Minister is satisfied, after consultation with the Roads and Traffic Authority, that the building will not interfere with sight lines along Glen and Northcliff Streets to such an extent as to be a hazard to traffic, and

(b) the Minister is satisfied, on the basis of information provided by the applicant for development consent, that neither the building, nor the process of its erection, will threaten or damage any heritage fig tree and, in particular, that land beneath the canopy of any heritage fig tree will not be used for any purpose in connection with the erection of the building, and

(c) the Minister is satisfied that appropriate arrangements will be made to give public access to the open spaces around the building.

(8) Nothing in any local environmental plan or regional environmental plan applies to or in respect of the carrying out of development on the cliff top sites.

(9) *State Environmental Planning Policy No 1—Development Standards* does not apply to or in respect of the cliff top sites.

(10) In this clause:

**cliff top area** has the same meaning as it has in Part 2A of the *Luna Park Site Act 1990*.

**heritage fig tree** means a fig tree that is a heritage item for the purposes of *North Sydney Local Environmental Plan 2001*.

## **Schedule 7 Development that does not require consent under Part 4**

(Clause 10A)

### **1 Port and related employment lands development by public authority**

The following development carried out in the following areas by a public authority:

- (a) development within the area identified on Map 5 to Schedule 2, being development with a capital investment value of not more than \$5 million,
- (b) development within the area identified as Glebe Island, White Bay, Rozelle Bay and Blackwattle Bay on Maps 6A and 6B to Schedule 2, being development with a capital investment value of not more than \$5 million.

## **Schedule 8 Exempt development**

(Clause 10B (1) and Schedule 3)

### **Part 1 Sydney Cricket Ground**

#### **1 Certain development at Sydney Cricket Ground**

Development for any of the following purposes that is of minimal environmental impact and carried out within that part of the area identified on Map 8 to Schedule 2 that is land described in Part 1 of Schedule 2 to the [Sydney Cricket and Sports Ground Act 1978](#):

- (a) landscaping (including the installation, maintenance and upgrading of playground or recreational equipment, park furniture, gardens, paving and the like),
- (b) installation, maintenance and upgrading of bus shelters, pedestrian pathways, cycleways, cycle storage racks, visitor information booths, kiosks, street furniture, access ramps for people, shade shelters, awnings, fences, gates, flag poles, public art, catering outlets, bars and restaurants,
- (c) signage to promote events, identify buildings or give directions,
- (d) installation, maintenance and upgrading of security or emergency services equipment (including fire detection systems, pump houses, fire water tanks, security cameras, lighting, emergency security fencing, and barriers to prevent unauthorised access or to ensure public safety) and the internal or external modification of buildings for building security and fire safety reasons,
- (e) installation, maintenance and upgrading of mobile communication facilities, road and traffic management works, solar panels and associated structures, and lighting,
- (f) minor alterations and additions to existing facilities (including grandstand seating, lights, light towers, lifts, air conditioning systems, toilets, plant and equipment),

- (g) temporary outdoor non-sporting events (such as concerts) that:
- (i) are subject to noise controls in a prevention notice issued under the *Protection of the Environment Operations Act 1997*, and
  - (ii) have a total duration of not more than 14 days, and
  - (iii) are the subject of a written plan for the management of traffic, parking and vehicle and pedestrian access in relation to the event,
- and associated equipment, structures and facilities (such as stages, public address systems, food or beverage outlets, video screens, and information or ticket booths).

## **Part 2 Greystanes SEL site**

### **1 Access ramps**

- (1) Maximum height of less than 1m above ground level (existing).
- (2) Located behind the building line to any street frontage and at least 900mm from the side boundary.
- (3) Maximum grade 1:14 (vertical: horizontal).

### **2 Air conditioning units**

- (1) Attached to an external wall or mounted on the ground.
- (2) Located at least 3m from property boundaries and behind required street setback to any street frontage.
- (3) Must not affect the structural integrity of the section of the building affected by the installation of the unit.
- (4) Any opening created by the installation must be adequately weather-proofed and the required fire-rating must not be reduced.

### **3 Awnings, canopies and storm blinds**

- (1) Attached to a building.
- (2) Maximum area 10m<sup>2</sup>.
- (3) Located behind building line to any street frontage.
- (4) Located at least 900mm from property boundaries.
- (5) Installed to manufacturer's specifications.



#### **4 Barbecue**

- (1) Located at least 900mm from property boundaries.
- (2) Located behind building line to any street frontage.
- (3) Maximum height 2.1m above ground level (existing).
- (4) Maximum area of base 4m<sup>2</sup>.

#### **5 Change of use**

- (1) Change of use from a shop to another shop or an office to another office.
- (2) Must be an existing legal use.
- (3) The proposed use:
  - (a) must not involve a change of class of building as defined in the *Building Code of Australia*, and
  - (b) must comply with the conditions of any existing consent for the use of the building or land, and
  - (c) must not involve displaying or selling or rendering accessible or available to the public a category 1 restricted publication, category 2 restricted publication or a RC publication (within the meaning of the *Classification (Publications, Films and Computer Games) Act 1995* of the Commonwealth), and
  - (d) must not involve displaying or selling any article, material, compound, preparation, device or other thing that is primarily concerned with, or is used or intended to be used in connection with, sexual behaviour but is not printed material, and
  - (e) must not operate outside the hours in which the existing use operates, and
  - (f) must not attract additional car parking requirements.
- (4) The curtilage of a shop or office must not be used for storage or display purposes.

#### **6 Decks**

- (1) Maximum area of deck 20m<sup>2</sup>.
- (2) Located behind the building line to any street frontage.
- (3) Located at least 3m from property boundaries.
- (4) Deck must not be roofed.
- (5) Maximum height 500mm above ground level to top of deck with balustrade height not

exceeding 1.2m above top of deck.

### **7 Demolition of a building**

- (1) Relevant Council has consented to demolition or an order to demolish has been issued by the relevant Council under section 124 of the *Local Government Act 1993*.
- (2) Erected as exempt development (whether before or after this Policy took effect).
- (3) Carried out in accordance with Australian Standard AS 2601—2001, *Demolition of structures*.
- (4) All work involving asbestos cement must comply with the WorkCover Authority's safety guidelines and requirements for work involving asbestos contained in its publication *Working with Asbestos Guide 2008*.
- (5) All work involving lead paint removal must not cause soil or air contamination.

### **8 Driveways and pathways**

- (1) Only one driveway per lot.
- (2) Must be structurally sound, of stable construction and adequately reinforced.
- (3) Must not be elevated or suspended above ground level (finished).
- (4) Must not redirect stormwater or surface water onto adjoining property.
- (5) Must comply with any policy of the relevant Council on maximum gradients and transitions that applies to the site.

### **9 Earthworks and landfill**

- (1) Only clean fill to be used.
- (2) Maximum depth of 200mm of fill from ground level (finished).
- (3) Must not redirect stormwater or surface water onto adjoining property.

### **10 Fences**

- (1) Maximum height 1.2m above ground level (existing) if located at least 3m from the front boundary and of open construction.
- (2) Maximum height 1.8m above ground level (existing) for all other fences if located behind the street setback area.
- (3) Must not contain barbed wire.

### **11 Flag poles**

- (1) Maximum height 6m above ground level (existing) and located at least 7m from boundaries.
- (2) Only one per lot.
- (3) Structurally adequate and installed to manufacturer's specifications.

### **12 Hoardings**

- (1) All care must be taken to safeguard the general public.
- (2) Vertical height above footpath level of the structure being demolished or erected must be less than 4m.
- (3) Must be constructed of solid materials to a height not less than 2.4m above the footpath or thoroughfare.
- (4) Must not encroach onto public footpath or thoroughfare.
- (5) Must be in accordance with Australian Standard AS 1319—1994, *Safety signs for the occupational environment*.
- (6) Must be structurally adequate.
- (7) Must be of a temporary nature and be for less than 12 months.

### **13 Private electricity service pole/post**

Must comply with specifications for electricity distributors in the *Service and Installation Rules of New South Wales* published by the Department of Water and Energy (as referred to in the *Code of Practice (Electricity) Service and Installation Rules of New South Wales, December 2007*, published by that Department).

### **14 Rainwater tanks**

- (1) Minimum 900mm from property boundaries.
- (2) Located behind the front building alignment.
- (3) Maximum height of 1.8m from ground level.
- (4) Overflow must be directed into a suitable stormwater system.
- (5) Must not exceed 1,000L.
- (6) Must be installed on a solid base.
- (7) Must be installed in accordance with manufacturer's specifications.

**15 Replacement or repair of existing roof and walls to buildings, carports or garages**

- (1) Must not alter existing window or door openings or their location and size.
- (2) Must use materials other than masonry with a low reflectivity index and of equivalent or improved quality.
- (3) Must not involve a structural alteration.
- (4) Must not change roof height, pitch or profile.
- (5) Must direct all stormwater to a suitable system.
- (6) Must comply with the WorkCover Authority's safety guidelines and requirements for work involving asbestos contained in its publication *Working with Asbestos Guide 2008*.

**16 Retaining walls**

- (1) Maximum height 900mm above or below ground level (existing).
- (2) Located at least 900mm from any property boundary.
- (3) Must be structurally adequate for the intended purpose.
- (4) Timber walls, must comply with Australian Standard AS 1720.2—2006, *Timber structures—Timber properties*.

**17 Roof ventilators and skylight roof windows**

- (1) Maximum area 3m<sup>2</sup>.
- (2) Building work must not reduce the structural integrity of the building or involve structural alterations and must be structurally adequate.
- (3) Located at least 900mm from property boundaries or 900mm from a separating wall between 2 buildings.
- (4) Must be installed in accordance with manufacturer's specifications.
- (5) Any opening created by the installation must be adequately weatherproofed and the required fire rating must not be reduced.

**18 Satellite dishes**

- (1) Must be roof or rear yard mounted.
- (2) Maximum diameter 1.5m.
- (3) Building work must not reduce the structural integrity of the building or involve structural alterations and must be structurally adequate.

- (4) One only per lot.
- (5) Maximum height 1.8m from the roof level on which it is mounted.
- (6) Installed to manufacturer's specifications.

## **19 Scaffolding**

- (1) Must not encroach onto footpath or public thoroughfare.
- (2) Must have sufficient structural strength to withstand and be impenetrable to impact of falling rubble.
- (3) Must enclose the work area.
- (4) Must comply with the following standards:
  - (a) AS/NZS 1576.1:1995, *Scaffolding—General requirements*,
  - (b) AS 1576.2—1991, *Scaffolding—Couplers and accessories*,
  - (c) AS/NZS 1576.3:1995, *Scaffolding—Prefabricated and tube-and-coupler scaffolding*,
  - (d) AS 1576.4—1991, *Scaffolding—Suspended scaffolding*,
  - (e) AS/NZS 1576.5:1995, *Scaffolding—Prefabricated splitheads and trestles*.
- (5) Must be removed immediately after conclusion of the purpose for which it was initially provided.
- (6) Removal must not result in the area becoming unsafe.

## **20 Signs**

- (1) Real estate signs:
  - (a) Only one per site.
  - (b) Maximum area 1.1m<sup>2</sup>.
- (2) Under awning signs:
  - (a) Associated with a business or industrial use.
  - (b) Only one per site.
  - (c) Minimum 2.7m above ground level (existing).
  - (d) Must not extend beyond the width of the awning.
- (3) Window signs:

- (a) Maximum 50% of window area.
- (b) Must be located below the awning level.

**21 Television aerial or microwave antennae**

- (1) Maximum height 6m above the highest point of the roof.
- (2) Must be structurally adequate.

**22 Water heaters (includes solar systems)**

- (1) Must not reduce the structural integrity of the building or involve structural alterations.
- (2) Must not interfere with views from surrounding properties.
- (3) Installed to manufacturer's specifications by a licensed person.

**23 Windows, glazed areas and external doors**

- (1) Materials must comply with the following standards:
  - (a) AS 1288:2006, *Glass in Buildings—Selection and installation*,
  - (b) AS/NZS 2208—1996, *Safety glazing materials in buildings*.
- (2) Replacement must not increase size of or relocate item.
- (3) Must not reduce the area provided for light and ventilation.
- (4) Structural support members must not be removed.

**24 Use of land**

- (1) Commercial use of footpath or road (or closed road) on land owned by the relevant Council:
  - (a) Must comply with the terms and conditions of a licence obtained from the Council before use.
  - (b) Must be consistent with any plan of management that applies to the land.
- (2) Use of public open space for community, cultural or commercial purposes—must be in accordance with a temporary licence or hire agreement issued by the relevant Council.

## Part 3 Sydney Harbour Foreshore Sites

### 1 Certain development at Circular Quay, Darling Harbour and The Rocks

(1) Development specified in this Part that is of minimal environmental impact and carried out in the areas marked “Circular Quay”, “Darling Harbour” and “The Rocks” on Map 9 to Schedule 2.

(2) In this Part:

**the public domain** has the same meaning as in section 9 of the *Sydney Harbour Foreshore Authority Act 1998*.

#### Note—

Provisions about temporary structures are contained in *State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007*.

### 2 Temporary uses in the public domain

Temporary uses in the public domain, including a community event (such as a gathering, ceremony, cultural celebration, sporting event or exhibition) open to the general public, a commercial event (such as a product launch and sampling) and trading for retail or other commercial purposes (such as providing a temporary dining and drinking area), subject to the following requirements:

- (a) the use must have the written approval of the owner and, if occupied, the occupier of the land on which the use will be conducted and the approval must state that the use will not exceed the relevant limit specified in paragraph (b) or (c),
- (b) if the use is a community or commercial event:
  - (i) the use must be for not more than 4 consecutive days, and
  - (ii) the period from the start of set-up to the completion of clean-up for the use must not be more than 7 consecutive days, and
  - (iii) a location must not be used for more than 90 days, inclusive of set-up and clean-up time, in any calendar year,
- (c) if the use is trading for retail or other commercial purposes, the use must be for not more than 2 consecutive days and a location must not be used for not more than 6 days in any calendar year,
- (d) there must be no permanent physical change to the fabric of the location where the use occurs,
- (e) emergency vehicle access must be maintained to and around the location at all times,
- (f) pedestrian access at the location must be maintained along existing footpaths, or

barriers must be erected between alternative pedestrian pathways and traffic on any adjoining road,

- (g) the use must not occur before 7.00 am or after 10.00 pm on any day, except Australia Day (when the use may occur until midnight) and New Year's Eve (when the use may occur until 2.00 am the following day),
- (h) set-up time for the use must not start earlier than 6.00 am,
- (i) clean up time for the use must end no later than 2 hours after the use was to stop occurring under paragraph (g),
- (j) temporary flags relating to the use:
  - (i) must be attached to existing flagpoles, and
  - (ii) must not be displayed for more than 14 days before the use starts, and
  - (iii) must be removed within 7 days after the use ends,
- (k) other temporary signs (including freestanding banners):
  - (i) must not be more than 2.5m in height, and
  - (ii) must not be larger than 1.2m by 2.4m, and
  - (iii) must not be displayed for more than 7 days before the use starts, and
  - (iv) must be removed within 2 days after the use ends,
- (l) the noise level from the use, when measured at the boundary of the nearest residential property, must not exceed:
  - (i)  $L_{Amax}$  70 dB(A) and  $L_{Cmax}$  90 dB(C) on Friday and Saturday, and
  - (ii)  $L_{Amax}$  65 dB(A) and  $L_{Cmax}$  85 dB(C) on any other day.

### **3 Temporary use of land or existing buildings to project fireworks or lighting displays or to make a broadcast**

The projection of fireworks or a lighting display or the making of a broadcast, subject to the following requirements:

- (a) the use must have the written approval of the owner and, if occupied, the occupier of the building or land from or on which the use will be conducted,
- (b) if the use is the projection of a lighting display onto a building, must have the written approval of the owner and, if occupied, the occupier of the building onto which the lighting will be projected,
- (c) the use must not involve any new attachments to any item listed on the State



Heritage Register kept under the *Heritage Act 1977*,

- (d) the use must be for an exceptional non-commercial occasion of no longer than 4 hours,
- (e) the use must not be on more than 6 occasions in any calendar year,
- (f) before the use starts, the person conducting the use must advise the Council in writing of the dates, duration and location of the use,
- (g) if the use is the projection of fireworks, it must be carried out in accordance with a licence granted under the *Explosives Act 2003*.

#### **4 Christmas decorations in the public domain**

The erection, installation or display of Christmas decorations, including lights, in the public domain, subject to the following requirements:

- (a) must be erected, installed or displayed by or on behalf of a public authority,
- (b) must be structurally stable with adequate footings or attachments,
- (c) must not require any new attachments to any item listed on the State Heritage Register kept under the *Heritage Act 1977*,
- (d) if above a footpath, road or laneway, must be at least 3.5m above ground level,
- (e) must not be more than 4.5m high,
- (f) despite paragraph (e), 1 Christmas tree in each of the areas marked “Darling Harbour” and “The Rocks” on Map 9 to Schedule 2 may be up to 20m high,
- (g) must not be displayed before 15 November in any year and must not be displayed for more than 8 continuous weeks,
- (h) the erection or installation of a Christmas tree may start 1 week before the display starts and must be removed during the week following the 8 week display period.

## **Schedule 9 Complying development**

(Clause 10B (2) and Schedule 3)

### **Part 1 Greystanes SEL site**

#### **1 Internal alterations to commercial or light industrial buildings**

- (1) Existing approved use must be operating in accordance with development consent.
- (2) Must not increase the total floor area of the building.

## **2 Signage**

- (1) Must be a sign on the façade of the building or a directory sign.
- (2) Façade signs and signs that are not freestanding must be located below parapet level.
- (3) Signs on the front façade must be a maximum of:
  - (a) one third of the length of the front façade, and
  - (b) 12m in length.
- (4) Must be a freestanding directory sign containing the names of tenants or businesses within the development that:
  - (a) is located close to the site's main entrance and so as to be easily seen when entering or approaching the site, and
  - (b) has a maximum height of 9m.
- (5) Identification signs on a secondary street frontage must be 50% of the size of those on the primary frontage.
- (6) No blinking, flashing or moving signage.