

# State Environmental Planning Policy (Major Development) 2005

[2005-194]



New South Wales

## Status Information

### Currency of version

Historical version for 16 December 2011 to 5 January 2012 (accessed 26 March 2025 at 13:44)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Notes—

- **Previously named**
  - State Environmental Planning Policy (Major Projects) 2005
  - State Environmental Planning Policy (State Significant Development) 2005
- **Does not include amendments by**
  - [Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2011 No 62](#) (not commenced — to commence on 6.1.2012)

### 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](#).

File last modified 16 December 2011

# State Environmental Planning Policy (Major Development) 2005



New South Wales

## Contents

<b>Part 1 Preliminary</b> .....	4
1 Name of Policy .....	4
2 Aims of Policy .....	4
2A Application of Policy—transitional Part 3A projects .....	4
3 Definitions and key concepts .....	5
3A Maps .....	5
4 Land to which Policy applies .....	6
5 Relationship to other environmental planning instruments .....	6
<b>Part 2 State significant sites</b> .....	6
6–6C (Repealed) .....	6
7 State significant sites .....	6
8 Proposals for State significant site listing .....	6
9 (Repealed) .....	7
9A Development for which Minister is consent authority under Part 4 .....	7
10 Exclusion of certain exempt or complying development .....	7
10A Development that does not require consent under Part 4 .....	8
10B Exempt and complying development .....	8
11 Subdivision certificates for Part 3A projects .....	8
12 Walsh Bay—designated consent authority .....	8
12A Sydney Harbour Foreshore Sites—consent authority .....	8
<b>Part 3 (Repealed)</b> .....	9

<b>Part 4 Miscellaneous</b> .....	9
14 Transitional provisions .....	9
15 (Repealed) .....	10
16 Savings and transitional provisions .....	10
17 Transitional provisions—residential, commercial or retail projects and coastal subdivision .....	12
<b>Schedules 1, 2 (Repealed)</b> .....	12
<b>Schedule 3 State significant sites</b> .....	13
<b>Schedules 4, 5 (Repealed)</b> .....	290
<b>Schedule 6 Minister consent authority for Part 4 development</b> .....	290
<b>Schedule 7 Development that does not require consent under Part 4</b> ...	291
<b>Schedule 8 Exempt development</b> .....	292
<b>Schedule 9 Complying development</b> .....	306

# State Environmental Planning Policy (Major Development) 2005



New South Wales

## Part 1 Preliminary

### 1 Name of Policy

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

### 2 Aims of Policy

The aims of this Policy are as follows:

- (a), (b) (Repealed)
- (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), (f) (Repealed)

### 2A Application of Policy—transitional Part 3A projects

- (1) On the repeal of Part 3A of the Act, this Policy is subject to Schedule 6A to the Act.

#### Note—

Schedule 6A of the Act sets out those projects which will continue as Part 3A projects (**transitional Part 3A projects**) and revokes the declaration of any other Part 3A project.

- (2) The repeal of clauses 6–6C and Schedules 1, 2 and 5 of this Policy, and the other amendments made to this Policy, by the *State Environmental Planning Policy (State and Regional Development) 2011* do not affect any of the following:
  - (a) the declaration under this Policy of a project as a project or a critical infrastructure project under Part 3A, if that project is a transitional Part 3A project,

(b) any certificate in force under clause 6C immediately before that repeal.

### 3 Definitions and key concepts

(1) In this Policy:

**capital investment value** has the same meaning as in the *Environmental Planning and Assessment Regulation 2000*.

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

**coastal zone** has the same meaning as in the *Coastal Protection Act 1979*.

**Sydney Harbour Foreshore Sites Map** means the *State Environmental Planning Policy (Major Development) 2005—Sydney Harbour Foreshore Sites Map*.

**Sydney Harbour Port and Related Employment Lands Map** means the *State Environmental Planning Policy (Major Development) 2005—Sydney Harbour Port and Related Employment Lands Map*.

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

(2) Words and expressions used in this Policy have the same meaning as they have in Schedule 6A to the Act.

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

#### 3A Maps

(1) A reference in this Policy to a named map adopted by this Policy 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 Policy, a map may be in, and may be kept and made available in, electronic or paper form, or both.

#### **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.

### **Part 2 State significant sites**

#### **6-6C (Repealed)**

#### **7 State significant sites**

- (1) Schedule 3 describes State significant sites.
- (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 is 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 is of a kind described in Schedule 6 to this Policy and is not a transitional Part 3A project, State significant development or State significant infrastructure.
- (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 transitional Part 3A project, 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 transitional Part 3A project,the particular development is not such a project.
- (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 transitional Part 3A project or State significant infrastructure).

#### **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](#) and appoints the Council of the City of Sydney as the consent authority for that development.
- (2) This clause does not affect the operation of Part 3A of the Act in relation any development at Walsh Bay that is a transitional Part 3A project.
- (3) This clause does not affect the operation of Division 4.1 of Part 4 or Part 5.1 of the Act in relation to any development at Walsh Bay that is development to which those provisions apply.

**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 identified as a Sydney Harbour Foreshore Site on the [Sydney Harbour Foreshore Sites Map](#) that is not State significant



development.

- (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*).

## **Part 3**

### **13-13G (Repealed)**

## **Part 4 Miscellaneous**

### **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 (Repealed)**

## **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)*

*State Environmental Planning Policy (Major Development) Amendment (Port Botany) 2010*

(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*

*State Environmental Planning Policy (Major Projects) Amendment (Joint Regional Planning Panels) 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.
- (2B) For the purposes of this clause, a reference to a development application made but not finally determined before the commencement of *State Environmental Planning Policy (Major Projects) Amendment (Joint Regional Planning Panels) 2009* includes a reference to a development application (whether or not made after that commencement) if it arises out of a staged development application made but not determined before that commencement.
- (2C) A reference in any instrument to the *State Environmental Planning Policy (Major Projects) 2005* is taken to be a reference to the *State Environmental Planning Policy (Major Development) 2005*.
- (2D) The amendments made by *State Environmental Planning Policy (Major Development) Amendment (Wagga Wagga and Western Region Regional Panels) 2009* apply to a development application made under Part 4 of the Act, but not finally determined before the commencement of those amendments, if the development application relates to proposed development in the area of Wagga Wagga City.
- (2E) Except as provided by subclause (2D), the amendments made by *State Environmental Planning Policy (Major Development) Amendment (Wagga Wagga and Western Region Regional Panels) 2009* do not apply to a development application made under Part 4 of the Act, but not finally determined, before the commencement of those amendments.
- (2F) The amendments made by *State Environmental Planning Policy (State and Regional Development) 2011* to Schedule 6 to this Policy do not apply to a development application made, but not finally determined, before the commencement of those amendments.
- (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).

**17 Transitional provisions—residential, commercial or retail projects and coastal subdivision**

- (1) This Policy continues to apply in respect of the following development that is a transitional Part 3A project under Schedule 6A to the Act, as if Group 5 of Schedule 1 and clause 1 of Schedule 2 had not been repealed by *State Environmental Planning Policy (Major Development) Amendment 2011*:
- (a) residential, commercial or retail development,
  - (b) coastal subdivision development.

**Note—**

Schedule 6A to the Act continues projects saved by this clause as transitional Part 3A projects and applies Part 3A of the Act (now repealed) as modified by that Schedule to those projects.

(2)–(8) (Repealed)

(9) In this clause:

**coastal subdivision development** means development:

- (a) of a kind referred to in clause 1 of Schedule 2, as in force immediately before the commencement of *State Environmental Planning Policy (Major Development) Amendment 2011*, or
- (b) that, immediately before that commencement, continued to be development referred to in clause 1 of Schedule 2 because of the operation of clause 16 (2) of this Policy.

**residential, commercial or retail development** means development:

- (a) of a kind referred to in Group 5 of Schedule 1, as in force immediately before the commencement of the *State Environmental Planning Policy (Major Development) Amendment 2011*, or
- (b) that, immediately before that commencement, continued to be development referred to in Group 5 of Schedule 1 because of the operation of clause 16 (2) of this Policy.

**Schedules 1, 2 (Repealed)**

## Schedule 3 State significant sites

(Clauses 6 and 7)

### Part 1 Sydney Opera House

#### Division 1

##### 1 (Repealed)

#### 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**

#### **1 (Repealed)**

### **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) (Repealed)
- (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) Development consent must not be granted to the erection of any building on the cliff top sites unless:

- (a) the consent authority 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 consent authority 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 consent authority 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) (Repealed)
- (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

1-15 (Repealed)

## Part 4 Channel 7 site

### Division 1 Preliminary

#### 1 Definition of particular terms

In this Part:

**basement** means the space of a building where the floor level of that space is predominantly below ground level (finished) and where the floor level of the storey immediately above is less than 1.2 metres above ground level (finished).

**Channel 7 site** means the land identified on the [Land Application Map](#).

**dwelling, earthworks, excavation** 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* (as in force immediately before the commencement of the *Standard Instrument (Local Environmental Plans) Amendment Order 2011*).

**ground level (finished)** means, for any point on a site, the ground surface after completion of any earthworks (excluding any excavation for a basement, footings or the like) for which development consent or an approval under Part 3A of the Act has been granted, or that is exempt development.

**Height of Buildings Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Channel 7 Height of Buildings Map](#).

**Land Application Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Channel 7 Land Application Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Channel 7 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 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, or
- (c) a basement.

## 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 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.

### **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* (as in force immediately before the commencement of the *Standard Instrument (Local Environmental Plans) Amendment Order 2011*).

### **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**

### **5 (Repealed)**

## **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 transitional Part 3A project.

### **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 [Land 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; exhibition homes; 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 [Height of Buildings Map](#).
- (2) Development for the purpose of a dwelling must not be carried out if it would result in:
- (a) (Repealed)
  - (b) there being more than 800 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 transitional Part 3A project—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.

#### **14 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 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 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 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* (as in force immediately before the commencement of the *Standard Instrument (Local Environmental Plans) Amendment Order 2011*) 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*.

**Gross Floor Area Map** means the *State Environmental Planning Policy (Major Projects) 2005 Redfern-Waterloo Authority Sites—Gross Floor Area 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 (Repealed)**

## **Division 2**

### **5 (Repealed)**

## **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 transitional Part 3A project.

### **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 Part 3 of *State Environmental Planning Policy*

*(Affordable Rental Housing) 2009* applies, or

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

## **21 Height, floor space ratio and gross floor area 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.
- (2A) The gross floor area of a building on any land that is the subject of the [Gross Floor Area Map](#), being land known as the Australian Technology Park, is not to exceed the gross floor area shown for the land on that map.

### **Note—**

The total maximum floor space ratio for the land to which this subclause applies is equivalent to 2:1.

- (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, floor space ratio or gross floor area restrictions, or any combination of restrictions, set out in subclauses (1), (2) and (2A).

## **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**

Development consent may not be granted for the purpose of car parks on land within the Business Zone—Business Park unless the consent authority is satisfied that the number of car parking spaces in that zone 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).

### **24A 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 with or without development consent, or that is exempt development, 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.

## **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 transitional Part 3A project.

### **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 [Land Zoning Map](#).

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

**Kings Forest site** means the land identified on the [Land Application Map](#).

**Land Application Map** means the *State Environmental Planning Policy (Major Development) 2005 Kings Forest Land Application Map*.

**Land Zoning Map** means the *State Environmental Planning Policy (Major Development) 2005 Kings Forest Land Zoning Map*.

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

### 2 (Repealed)

### 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 transitional Part 3A project.
- (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.

#### 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 [Land Zoning Map](#) as being within that zone:
  - (a) Zone 2 (c) Urban Expansion,
  - (b) (Repealed)
  - (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 transitional Part 3A project—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.

## 11 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 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 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 7

(Repealed)

## 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 (as in force immediately before the commencement of the *Standard Instrument (Local Environmental Plans) Amendment Order 2011*) 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**

### **4 (Repealed)**

## **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 transitional Part 3A project.

### **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.

## **8 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 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 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 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](#) (as in force immediately before the commencement of the [Standard Instrument \(Local Environmental Plans\) Amendment Order 2011](#)) unless it is otherwise defined in this Part.

## **Division 2**

### **3 (Repealed)**

## **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 transitional Part 3A project.

### **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 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 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 Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

## **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 transitional Part 3A project, 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 identified on the [Land Application Map](#) referred to in this Schedule as the **Tomago Industrial site**.

#### 2 Interpretation

(1) In this Part:

**Land Application Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Tomago Industrial Land Application Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Tomago Industrial 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](#) (as in force immediately before the commencement of the [Standard Instrument \(Local Environmental Plans\) Amendment Order 2011](#)) 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 (Repealed)

### Division 2

#### 5 (Repealed)

### 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 transitional Part 3A project.

## **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 [Land 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 transitional Part 3A project, 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).

### **17 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 with or without development consent, or that is exempt development, 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 11**

**(Repealed)**

## Part 12 Barangaroo 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 Schedule as the **Barangaroo site**.

#### 2 Interpretation

(1) In this Part:

**Gross Floor Area Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Barangaroo Gross Floor Area Map](#).

**Height of Buildings Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Barangaroo Height of Buildings Map](#).

**heritage item** means a building that is shown as a heritage item on the [Heritage Map](#).

**Heritage Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Barangaroo Heritage Map](#).

**Land Application Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Barangaroo Land Application Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Barangaroo 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](#) (as in force immediately before the commencement of the [Standard Instrument \(Local Environmental Plans\) Amendment Order 2011](#)) 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 (Repealed)

### Division 2

#### 5 (Repealed)



## **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 transitional Part 3A project.

### **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 [Land 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:

business identification signs; charter and tourism boating facilities; community

facilities; earth works; entertainment facilities; environmental facilities; environmental protection works; filming; flood mitigation works; food and drink premises; function centres; information and education facilities; jetties; kiosks; markets; moorings; 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; water recreation structures; waterbodies (artificial).

- (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, 11 (Repealed)**

#### **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 (Repealed)**

#### **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.
- (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**

The height of a building on any land within the Barangaroo site is not to exceed the height for development on the land, expressed as Reduced Level (RL), as shown on the [Height of Buildings Map](#).

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

The total gross floor area of all buildings on any land within the Barangaroo site is not to exceed the gross floor area shown for the land shown on the [Gross Floor Area 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.

## **22 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 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 Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

## **23 Development near zone boundaries**

- (1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.
- (2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 25 metres.
- (3) Despite the provisions of this Part relating to the purposes for which development may be carried out, consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:
  - (a) the development is not inconsistent with the objectives for development in both zones, and
  - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.
- (4) This clause does not prescribe a development standard that may be varied under this Part.

## **Part 13**

**(Repealed)**



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

#### 2 Interpretation

(1) In this Part:

**Additional Permitted Uses Map** means the [State Environmental Planning Policy \(Major Development\) 2005 South Wallarah Peninsula Additional Permitted Uses Map](#).

**Height of Buildings Map** means the [State Environmental Planning Policy \(Major Development\) 2005 South Wallarah Peninsula Height of Buildings Map](#).

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

**heritage item** means a building, work, archaeological site, tree, place or Aboriginal object shown on the [Heritage Map](#) as a heritage item or described in the table to clause 22.

**Heritage Map** means the [State Environmental Planning Policy \(Major Development\) 2005 South Wallarah Peninsula Heritage Map](#).

**Land Application Map** means the [State Environmental Planning Policy \(Major Development\) 2005 South Wallarah Peninsula Land Application Map](#).

**Land Reservation Acquisition Map** means the [State Environmental Planning Policy \(Major Development\) 2005 South Wallarah Peninsula Land Reservation Acquisition Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) 2005 South Wallarah Peninsula 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](#) (as in force immediately before the commencement of the [Standard Instrument \(Local Environmental Plans\) Amendment Order 2011](#)) unless it is otherwise defined in this Part.

### **3 Consent authority**

The consent authority for development on land within the South Wallarah Peninsula site, other than development that is a transitional Part 3A project, is the relevant council.

### **4 (Repealed)**

### **5 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, other than:

- (a) *State Environmental Planning Policy No 1—Development Standards*, and
- (b) *State Environmental Planning Policy No 71—Coastal Protection*.

## **Division 2 Provisions relating to development in South Wallarah Peninsula site**

### **6 Application of Division**

- (1) This Division applies to development on land within the South Wallarah Peninsula site and so applies whether or not the development is a transitional Part 3A project, except as provided by subclause (2).
- (2) Clauses 8–12, 14, 17, 19, 21, 22, 23, 24, 26 and 29 do not apply to the extent that it is a transitional Part 3A project.

### **7 Land use zones**

For the purposes of this Part, land within the South Wallarah Peninsula site is in one of the following zones if the land is shown on the [Land Zoning Map](#) as being within that zone:

- (a) Zone R2 Low Density Residential,
- (b) Zone E1 National Parks and Nature Reserves,
- (c) 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 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.
- (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; boarding houses; car parks; child care centres; community facilities; dwelling houses; educational establishments; environmental facilities; flood mitigation works; group homes; health consulting rooms; home-based child care; home businesses; home industries; hospitals; information and education facilities; neighbourhood shops; places of public worship; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); roads; semi-detached dwellings; shop top housing; signage.
- (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 E1 National Parks and Nature Reserves**

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

uses authorised under the *National Parks and Wildlife Act 1974*.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E1 National Parks and Nature Reserves:

nil.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone E1 National Parks and Nature Reserves unless it is permitted by subclause (2) or (3).

## **11 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; earthworks; environmental facilities; flood mitigation works; roads; signage.

- (4) Except as otherwise provided by this Part, 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; service stations; warehouse or distribution centres; any other development not specified in subclause (2) or (3).

## **12 Additional permitted uses**

- (1) Despite any other provision of this Part, development for the following purposes may be carried out on the following land with development consent:

- (a) bed and breakfast accommodation, dwelling houses, home-based child care, home businesses, home industries and information and education facilities—on land within 20 metres of the following buildings:

- (i) “Wallarah House”, 1a Keene Street, being Part Lot 103, DP 1129872, as shown

hatched and labelled “1” on the [Additional Permitted Uses Map](#),

(ii) “Jetty Master’s Cottage”, Part Lot 103, DP 1129872 and Part Lot 1, DP 1151628, as shown hatched and labelled “2” on the [Additional Permitted Uses Map](#),

(b) recreation areas—on land known as the “Village Park” and the “Coastal Walkway”, as shown hatched and labelled “3” and “4”, respectively, on the [Additional Permitted Uses Map](#).

(2) Despite any other provision of this Part, development for the purpose of home occupations may be carried out without development consent on land within 20 metres of the following buildings:

(a) “Wallarah House”, 1a Keene Street, being Part Lot 103, DP 1129872, as shown hatched and labelled “1” on the [Additional Permitted Uses Map](#),

(b) “Jetty Master’s Cottage”, Part Lot 103, DP 1129872 and Part Lot 1, DP 1151628, as shown hatched and labelled “2” on the [Additional Permitted Uses Map](#).

### **13 Prohibited development**

Development on land within the South Wallarah Peninsula site that is part of a transitional Part 3A project is prohibited if it would be prohibited were it development to which Part 4 of the Act applies.

### **14 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.

## **15 Height of buildings**

- (1) The objectives of this clause are as follows:
  - (a) to ensure that development has an appropriate scale and height in relation to its landscape setting,
  - (b) to ensure that development in areas within close proximity to Catherine Hill Bay has an appropriate scale and height in relation to its heritage setting,
  - (c) 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 any land within the South Wallarah Peninsula site is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).

## **16 Exceptions to development standards—transitional Part 3A projects**

- (1) A development standard imposed by this or any other environmental planning instrument on development that is part of a transitional Part 3A project, and is on land within the South Wallarah Peninsula 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.
- (3) Despite subclause (1), consent must not be granted to any development that would contravene clause 15.

## **17 Exceptions to development standards—other development**

- (1) This clause applies to development on land within the South Wallarah Peninsula site, other than development that is part of a transitional Part 3A project.
- (2) The objectives of this clause are:
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and

- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (3) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (4) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (5) Development consent must not be granted for development that contravenes a development standard unless:
  - (a) the consent authority is satisfied that:
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (4), and
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - (b) the concurrence of the Director-General has been obtained.
- (6) In deciding whether to grant concurrence, the Director-General must consider:
  - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (7) 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 one 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) clause 15.

### **18 Controls relating to miscellaneous uses**

- (1) **Bed and breakfast accommodation** Development for the purposes of bed and breakfast accommodation on land within the South Wallarah Peninsula site must not involve the provision of more than 3 bedrooms for accommodation for guests.
- (2) **Home businesses** Development for the purposes of a home business on land within the South Wallarah Peninsula site must not involve the use of more than 30 square metres of floor area for the carrying on of the business.
- (3) **Home industries** Development for the purposes of a home industry on land within the South Wallarah Peninsula site must not involve the use of more than 30 square metres of floor area for the carrying on of the light industry.
- (4) **Neighbourhood shops** Development for the purposes of a neighbourhood shop on land within the South Wallarah Peninsula site must not result in a combined retail floor area of all neighbourhood shops on that land of more than 750 square metres.

### **19 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) Development 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) Development 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.

## **20 Architectural roof features**

- (1) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 15 may be carried out, but only with consent.

- (2) 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.

## **21 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 Director-General.

### **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 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 that is or forms part of a heritage item.

**Note—**

As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 22 will be applicable to any such consent.

(8) This clause does not apply to or in respect of:

- (a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003* or that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or
- (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause, or
- (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or
- (d) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying and Spatial Information Act 2002*, or
- (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

## **22 Heritage conservation**

(1) **Requirement for consent** Development consent is required for any of the following:

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

(g) subdividing land on which a heritage item is located or that is within a heritage conservation area.

(2) **When consent is not required** However, consent under this clause is not required if:

(a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:

- (i) is of a minor nature, or is for the maintenance of the heritage item, or a building, work, relic, tree or place within the heritage conservation area, and
- (ii) would not adversely affect the significance of the heritage item, archaeological site or heritage conservation area, or

(b) the development is in a cemetery or burial ground and the proposed development:

- (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving and repairing monuments or grave markers, and
- (ii) would not cause a disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to a place of Aboriginal heritage significance, or

(c) the development is limited to the removal of a tree or other vegetation that the relevant council is satisfied is a risk to human life or property, or

(d) the development is exempt development.

(3) **Effect on heritage significance** The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (4) or a heritage conservation management plan is submitted under subclause (5).

(4) **Heritage impact assessment** The consent authority may, before granting consent to any development on land:

- (a) on which a heritage item is situated, or
- (b) within a heritage conservation area, or
- (c) within the vicinity of land referred to in paragraph (a) or (b),

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

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

**Environmental heritage table**

Suburb	Item name	Address	Property description	Significance	Item number
Catherine Hill Bay	Wallarah House	1a Keene Street	Lots 102 and 103, DP 1129872; Lot 1, DP 1151628	Local	1
Catherine Hill Bay	Catherine Hill Bay Colliery Railway		Lots 101, 103 and 104, DP 1129872; Lot 1, DP 1151628	Local	2

**23 Arrangements for designated State public infrastructure**

- (1) This clause applies to land within the South Wallarah Peninsula 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 the 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 1 September 2008, 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 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 utility undertakings, 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) 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).

#### **24 Public utility infrastructure**

- (1) Development consent must not be granted for development on land within the South Wallarah Peninsula site unless the relevant council 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 it is required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.
- (3) In this clause, **public utility infrastructure** includes infrastructure for any of the following:
  - (a) the supply of water,
  - (b) the supply of electricity,
  - (c) the disposal and management of sewage.

#### **25 Infrastructure development and use of existing buildings of the Crown**

- (1) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under [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.

#### **26 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 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 E1 National Parks and Nature Reserves

Minister administering the *National Parks and Wildlife Act 1974*

**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*).

- (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.

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

- (1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Part 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).

## **28 Mining, petroleum production and extractive industries**

This Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*.

## **29 Development control plan**

(1) The objective of this clause is to ensure that development on land within Zone R2 Low Density Residential occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.

(2) Development consent must not be granted for development on land within Zone R2 Low Density Residential unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.

(3) The development control plan must provide for all of the following:

(a) a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,

(b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,

(c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,

(d) a network of passive and active recreational areas,

(e) stormwater and water quality management controls,

(f) amelioration of natural and environmental hazards, including bushfire, flooding

and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,

- (g) detailed urban design controls for significant development sites,
  - (h) measures to accommodate and control appropriate neighbourhood commercial and retail uses,
  - (i) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.
- (4) Subclause (2) does not apply to any of the following development:
- (a) a subdivision of land if any of the lots proposed to be created is to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose,
  - (b) a subdivision of land in a zone in which the erection of structures is prohibited,
  - (c) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.
- (5) Development on the following land must satisfy the requirements of the *Lake Macquarie Development Control Plan No 1*, adopted by the Council on 23 November 2009, unless a development control plan is prepared for the land in accordance with this clause:
- (a) Lot 1, DP 163 Section K,
  - (b) Lot 2, DP 163 Section I.

## **Part 15 Wyong Employment Zone**

### **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 **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](#) (as in force immediately before the commencement of the [Standard Instrument \(Local Environmental Plans\) Amendment Order 2011](#)).
- (2) In this Part:

**Land Application Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Wyong Employment Zone Land Application Map](#).

**Land Reservation Acquisition Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Wyong Employment Zone Land Reservation Acquisition Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Wyong Employment Zone 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 \(Major Development\) 2005 Wyong Employment Zone Warnervale Obstacle Limitation Surface Map](#).

**Warnervale Airport Operations Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Wyong Employment Zone Warnervale Airport Operations 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 (Repealed)

### 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 [Land 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 [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).

## **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 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 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 Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

## **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 identified on the [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.

**16A Additional permitted uses—Warner Industrial Park**

(1) This clause applies to the following land:

- (a) Lots 4-9, DP 239704,
- (b) Lots 15-19, 25 and 26, DP 259530,
- (c) Lot 5, DP 259531,

known as Warner Industrial Park.

(2) Despite any other provision of this Policy, a person may, with development consent, carry out development on land to which this clause applies:

- (a) for the purpose of an industrial retail outlet, but only if the retail floor area of the development does not exceed:
  - (i) 20% of the building or place in which the relevant industry is carried out, or
  - (ii) 200 square metres,whichever is the lesser, and
- (b) for the purpose of a neighbourhood shop and food and drink premises, but only if the retail floor area of the development does not exceed 200 square metres, and
- (c) for the purpose of a vehicle body repair workshop and vehicle repair station.

**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 the vicinity 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 any proposed development.
- (2) Development consent must not be granted for the erection on land of a building, the height of which exceeds the obstacle limitation surface height for that land, unless the consent authority is satisfied that the building will not constitute an obstruction or hazard to aircraft flying in the vicinity.

- (3) In this clause:

***obstacle limitation surface height***, for land, means the height of the obstacle limitation surface for that land shown on the [Warnervale Airport Obstacle Limitation Surface Map](#).

## 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* (as in force immediately before the commencement of the *Standard Instrument (Local Environmental Plans) Amendment Order 2011*), 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 transitional Part 3A project, is the Wyong Shire Council.

### 4 (Repealed)

### 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**

### **6 (Repealed)**

## **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 transitional Part 3A project.

### **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 Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under [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.

## **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—transitional Part 3A projects**

- (1) A development standard imposed by this or any other environmental planning instrument on development that is part of a transitional Part 3A project, 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 transitional Part 3A project.
- (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 the vicinity 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 any proposed development.

(2) Development consent must not be granted for the erection on land of a building, the height of which exceeds the obstacle limitation surface height for that land, unless the consent authority is satisfied that the building will not constitute an obstruction or hazard to aircraft flying in the vicinity.

(3) In this clause:

**obstacle limitation surface height**, for land, means the height of 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.

## Parts 17-19

(Repealed)

## Part 20 Three Ports Site

### Division 1 Preliminary

#### 1 Land to which this Part applies

This Part applies to the land identified on the [Land Application Map](#) and referred to in this Part as the **Three Ports Site**.

#### 2 Interpretation

(1) In this Part:

**Additional Permitted Uses Map** means:

- (a) the [State Environmental Planning Policy \(Major Projects\) Amendment \(Three Ports\) 2009 Newcastle Port Site Additional Permitted Uses Map](#), and
- (b) the [State Environmental Planning Policy \(Major Development\) 2005 \(Three Ports\) Port Botany Site Additional Permitted Uses Map](#).

**high technology industry** means:

- (a) an industry that has as its primary functions the manufacture, development, production, processing or assembly of, or research into, any of the following:
  - (i) electronic or micro-electronic systems, goods or components,
  - (ii) information technology, computer software or hardware,
  - (iii) instrumentation or instruments,
  - (iv) biological, pharmaceutical, medical or paramedical systems, goods or components,
  - (v) multi-media, production of films and television, including any post production communications, telecommunications systems, goods or components,
  - (vi) telecommunications systems, goods or components,
  - (vii) sustainable energy technologies,
  - (viii) other goods, systems or components intended for use in science or technology, and

- (b) any office or business premises related to or used for professional services in the applied sciences (including surveying and engineering and the like) or for logistics,

but does not include an industry that presents a hazard or potential hazard to the neighbourhood or by reason of the scale and nature of its manufacturing, development, production, processing or assembly, interferes with the amenity of the neighbourhood.

**Land Application Map** means:

- (a) the [State Environmental Planning Policy \(Major Projects\) Amendment \(Three Ports\) 2009 Newcastle Port Site Land Application Map](#), and
- (b) the [State Environmental Planning Policy \(Major Development\) 2005 \(Three Ports\) Port Botany Site Land Application Map](#), and
- (c) the [State Environmental Planning Policy \(Major Projects\) Amendment \(Three Ports\) 2009 Port Kembla Site Land Application Map](#).

**Land Zoning Map** means:

- (a) the [State Environmental Planning Policy \(Major Projects\) Amendment \(Three Ports\) 2009 Newcastle Port Site Land Zoning Map](#), and
- (b) the [State Environmental Planning Policy \(Major Development\) 2005 \(Three Ports\) Port Botany Site Land Zoning Map](#), and
- (c) the [State Environmental Planning Policy \(Major Projects\) Amendment \(Three Ports\) 2009 Port Kembla Site Land Zoning Map](#).

**port facilities** includes any of the following facilities at or in the vicinity of a designated port within the meaning of section 47 of the [Ports and Maritime Administration Act 1995](#):

- (a) facilities for the embarkation or disembarkation of passengers onto or from any vessels, including public ferry wharves,
- (b) facilities for the loading or unloading of freight onto or from vessels and associated receipt, land transport and storage facilities,
- (c) wharves for commercial fishing operations,
- (d) refuelling, launching, berthing, mooring, storage or maintenance facilities for any vessel,
- (e) sea walls or training walls,
- (f) administration buildings, communication, security and power supply facilities, roads, rail lines, pipelines, fencing, lighting or car parks.

**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* (as in force immediately before the commencement of the *Standard Instrument (Local Environmental Plans) Amendment Order 2011*) unless it is otherwise defined in this Part.

### **3 (Repealed)**

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

The only environmental planning instruments that apply, according to their terms, to land within the Three Ports Site are this Policy and all other State Environmental Planning Policies, other than *State Environmental Planning Policy No 1—Development Standards*.

### **5 Consent authority**

The consent authority for development that requires development consent on land within the Three Ports Site, other than development that is a transitional Part 3A project, is the relevant council.

## **Division 2 Provisions relating to development in the Three Ports Site**

### **6 Application of Division**

- (1) This Division applies to development on land within the Three Ports Site, except as provided by subclause (2).
- (2) Clauses 8–12, 14, 15, 17, 18, 20 and 21 do not apply to development to the extent the development is a transitional Part 3A project.

### **7 Land use zones**

For the purposes of this Part, land within the Three Ports Site is in one of the following zones if the land is shown on the [Land Zoning Map](#) as being in that zone:

- (a) Zone IN1 General Industrial,
- (b) Zone IN3 Heavy Industrial,
- (c) Zone SP1 Special Activities,
- (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 IN1 General Industrial**

- (1) The objectives of Zone IN1 General Industrial are as follows:
  - (a) to provide a wide range of industrial and warehouse land uses,
  - (b) to encourage employment opportunities,
  - (c) to minimise any adverse effect of industry on other land uses,
  - (d) to facilitate and encourage port related industries that will contribute to the growth and diversification of trade through the port,
  - (e) to enable development for the purposes of retailing or commercial offices only where it is associated with, and ancillary to, port related activities or ancillary to industrial use of the same land,
  - (f) to encourage ecologically sustainable development.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone IN1 General Industrial:

environmental protection works.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone IN1 General Industrial:

boat repair facilities; business premises (port related); depots; food and drink premises; freight transport facilities; high technology industries; jetties; light industries; neighbourhood shops; office premises (port related); resource recovery facilities; roads; signage; truck depots; vehicle body repair workshops; vehicle repair stations; warehouse or distribution centres; waste or resource management facilities.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone IN1 General Industrial unless it is permitted by subclause (2) or (3).

## **10 Zone IN3 Heavy Industrial**

- (1) The objectives of Zone IN3 Heavy Industrial are as follows:
  - (a) to provide suitable areas for those industries that need to be separated from other land uses,
  - (b) to encourage employment opportunities,
  - (c) to minimise any adverse effect of heavy industries on other land uses,
  - (d) to provide transport infrastructure and intermodal facilities,

(e) to allow some diversity of activities that will not significantly detract from the operation of existing or proposed industries.

(2) Development for any of the following purposes is permitted without development consent on land within Zone IN3 Heavy Industrial:

environmental protection works.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone IN3 Heavy Industrial:

depots; food and drink premises; freight transport facilities; heavy industries; port facilities; roads; transport depots; warehouse or distribution centres; waste or resource management facilities.

(4) Except as otherwise provided by this Part, development is prohibited on land within Zone IN3 Heavy Industrial unless it is permitted by subclause (2) or (3).

#### **11 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 maximise the use of waterfront areas to accommodate port facilities and industrial, maritime industrial and bulk storage premises that benefit from being located close to port facilities,

(e) to enable the efficient movement and operation of commercial shipping, and to provide for the efficient handling and distribution of freight from port areas through the provision of transport infrastructure,

(f) to facilitate development that by its nature or scale requires separation from residential areas and other sensitive land uses,

(g) to encourage employment opportunities.

(2) Development for any of the following purposes is permitted without development consent on land within Zone SP1 Special Activities:

community facilities; environmental facilities; environmental protection works.



- (3) Development for any of the following purposes is permitted only with development consent on land within Zone SP1 Special Activities:

boat launching ramps; depots; food and drink premises; freight transport facilities; heavy industries; navigation and emergency response facilities; port facilities; roads; transport depots; warehouse or distribution centres.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone SP1 Special Activities 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 development consent on land within Zone RE1 Public Recreation:

environmental protection works.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone RE1 Public Recreation:

boat launching ramps; car parks; community facilities; 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 development consent on land within a zone, is prohibited on land within that zone.

### **13A Prohibition on development for the purpose of container depots in Zone IN1**

- (1) Despite clause 9, development consent must not be granted for development for the purpose of a container depot on the land within Zone IN1 General Industrial that is shown hatched on the [State Environmental Planning Policy \(Major Development\) 2005 \(Three Ports\) Port Botany Site Land Zoning Map](#).

- (2) In this clause, a **container depot** means a building or place that is used for:

- (a) the unloading or unpacking (or both) of shipping containers for delivery to

individual consignees, or

- (b) the consolidation of goods from different consignors into full shipping container loads for despatch, or
- (c) the repair, refitting or storage of shipping containers.

#### **14 Exempt and complying development**

- (1) Development on land within the Three Ports Site that would satisfy the requirements for exempt development under an environmental planning instrument that would, but for clause 4, apply to the land is exempt development.
- (2) Development on land within the Three Ports Site that would satisfy the requirements for complying development under an environmental planning instrument that would, but for clause 4, apply to the land is complying development.

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

- (1) Land within the Three Ports 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.
- (3) Development consent must not be granted for the subdivision of 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 that Act.

#### **16 Exceptions to development standards—transitional Part 3A projects**

- (1) A development standard imposed by this or any other environmental planning instrument on development that is part of a transitional Part 3A project, and is on land

within the Three Ports 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 on land within the Three Ports Site, other than development that is part of a transitional Part 3A project.

(2) The objectives of this clause are:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(3) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(4) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(5) Development consent must not be granted for development that contravenes a

development standard unless:

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (4), and
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Director-General has been obtained.

(6) In deciding whether to grant concurrence, the Director-General must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

(7) 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.

## **18 Infrastructure development and use of existing buildings of the Crown**

- (1) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without development consent or that is exempt development under the [State Environmental Planning Policy \(Infrastructure\) 2007](#).
- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

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

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

## **20 Additional permitted uses for particular land**

- (1) The following development may be carried out with consent on the land that is shown hatched on the [State Environmental Planning Policy \(Major Projects\) Amendment \(Three Ports\) 2009 Newcastle Port Site Additional Permitted Uses Map](#):

development permitted with consent in Zone IN1 General Industrial.
- (2) The following development may be carried out with consent on the land that is shown hatched on the [State Environmental Planning Policy \(Major Development\) 2005 \(Three Ports\) Port Botany Site Additional Permitted Uses Map](#):

business premises; office premises.

(3) This clause has effect despite any other provision of this Part.

## **21 Heritage conservation**

(1) **Requirement for consent** Development consent is required for any of the following:

- (a) demolishing or moving a heritage item,
- (b) altering a heritage item that is a building by making structural changes to its interior,
- (c) erecting a building on land on which a heritage item is located.

(2) **When consent not required** However, consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
  - (i) is of a minor nature, or is for the maintenance of the heritage item, and
  - (ii) would not adversely affect the significance of the heritage item, or
- (b) the development is limited to the removal of a tree or other vegetation that the council is satisfied is a risk to human life or property, or
- (c) the development is exempt development.

(3) **Effect on heritage significance** The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item 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) **Heritage impact assessment** The consent authority may, before granting consent to any development on land:

- (a) on which a heritage item is situated, or
- (b) within the vicinity of land referred to in paragraph (a),

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 concerned.

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

- (6) **Conservation incentives** The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this Part, if the consent authority is satisfied that:
- (a) the conservation of the heritage item is facilitated by the granting of consent, and
  - (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and
  - (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and
  - (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
  - (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

(7) In this clause:

**heritage item** means a building, work, tree or place listed in the Table to this clause.

**Heritage items**

<b>Suburb</b>	<b>Item name</b>	<b>Address</b>	<b>Property description</b>
<b>Newcastle LGA</b>			
Carrington	Hydraulic Power Station	106 Bourke Street	Lot 3, DP 834572
Carrington	Bullock Island Crane Bases	140 Bourke Street	Lot 102, DP 1104195
Carrington	Former McMyler Hoist	140 Bourke Street	Lot 102, DP 1104195
Carrington	Armstrong & Royce Timber Mill	8 Cowper Street South	Part Lot 100, DP 1014244
Carrington	Earp Woodcock Beveridge & Co (Industrial Site)	8 Cowper Street South	Part Lot 100, DP 1014244
Kooragang	Palm	2A Heron Road	Lot 1, DP 575674
Mayfield North	Administration Building, 1933	51 Industrial Drive	Lot 225, DP 1013964

Mayfield North	Administration Buildings Nos 2, 3 and 4	51 Industrial Drive	Lot 225, DP 1013964
Mayfield North	No 1 Change House	51 Industrial Drive	Lot 225, DP 1013964
Mayfield North	1st Mill Building	51 Industrial Drive	Lot 225, DP 1013964
Mayfield North	Tool Room	133 Ingall Street	Lot 31, DP 1116571
Mayfield North	Delprat's Quarters	133A Ingall Street	Lot 32, DP 1116571
Mayfield North	Cycle Sheds for No 2 Rod Mill	135 Ingall Street	Lot 2, DP 1032755
Mayfield North	Apprentice Training Centre	135 Ingall Street	Lot 2, DP 1032755
Mayfield North	AC Saltwater Pumphouse	99 Selwyn Street	Lot 33, DP 1116571
Mayfield North	BHP Administration Building	99 Selwyn Street	Lot 33, DP 1116571
Mayfield North	Quality Control Laboratory	99 Selwyn Street	Lot 33, DP 1116571
Mayfield North	Master Mechanics Office	99 Selwyn Street	Lot 33, DP 1116571
Mayfield North	Pattern Store	99 Selwyn Street	Lot 33, DP 1116571
Mayfield North	Remnant No 1 Blast Furnace	99 Selwyn Street	Lot 33, DP 1116571
Mayfield North	Original Timber Wharves	99 Selwyn Street	Lot 33, DP 1116571
Mayfield West	Remnant Garden	3 Murray Dwyer Circuit	Lot 51, DP 270249
Newcastle East (Coal River Precinct)	Nobbys Lighthouse, Headland and Breakwater	Nobbys Road	Lot 2613, DP 755247; Part Lot 105, DP 1104195; R88721
Newcastle East (Coal River Precinct)	Stone Boat Harbour (Relic)	Wharf Road	Part Lot 105, DP 1104195
<b>Botany Bay LGA</b>			
Banksmeadow	Main Administration Building—"Orica" and Mature Ficus	Corner of Denison and Beauchamp Streets	Lot 11, DP 1039919



Banksmeadow	Pier Hotel	1751 Botany Road	Lot 1, DP 1031248
Banksmeadow	Botany Bay Hotel	1807 Botany Road	Lot A, DP 333268
Botany	Canary Island Date Palms (Phoenix canariensis)	23 Byrnes Street	Lot 1, DP 169307

### **Wollongong LGA**

Port Kembla	Mobile Block Setting Steam Crane	Eastern Breakwater Harbour	Lot 100, DP 1013971
Port Kembla	Garden around Former House and Adjacent Driveway	2 Electrolytic Street (Gloucester Boulevard)	Lot 51, DP 1002696
Port Kembla	Brick Chimney, Port Kembla Copper	Military Road	Lot 21, DP 546139
Port Kembla	Office and House, Port Kembla Copper	Military Road	Lot 21, DP 546139
Port Kembla	Commonwealth Rolling Mill Plant and Gardens	Old Port Road	Lot 1, DP 190251

## **Part 21 Macquarie University 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 **Macquarie University site**.

#### **2 Interpretation**

(1) In this Part:

**consent authority** means the council.

**council** means the Ryde City Council.

**Gross Floor Area Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Macquarie University\) 2009 Gross Floor Area Map](#).

**Height of Buildings Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Macquarie University\) 2009 Height of Buildings Map](#).

**Land Application Map** means the [State Environmental Planning Policy \(Major](#)

[Development\) Amendment \(Macquarie University\) 2009 Land Application Map.](#)

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Macquarie University\) 2009 Land Zoning Map.](#)

**public utility infrastructure** includes infrastructure for any of the following:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage.

- (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](#) (as in force immediately before the commencement of the [Standard Instrument \(Local Environmental Plans\) Amendment Order 2011](#)) unless it is otherwise defined in this Part.

### **3 (Repealed)**

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

The only environmental planning instruments that apply, according to their terms, to land within the Macquarie University site are as follows:

- (a) this Policy,
- (b) all other State environmental planning policies other than [State Environmental Planning Policy No 1—Development Standards](#).

## **Division 2 Provisions relating to development in Macquarie University site**

### **5 Application of Division**

- (1) This Division applies to development on land in the Macquarie University site, except as provided by subclause (2).
- (2) Clauses 7–9, 15 and 16 do not apply to development in the Macquarie University site to the extent that it is a transitional Part 3A project.

### **6 Land use zones**

For the purposes of this Part, land in the Macquarie University site is in a zone as follows if the land is shown on the [Land Zoning Map](#) as being in that zone:

- (a) Zone B4 Mixed Use,
- (b) 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 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,
- (c) to ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities,
- (d) to promote strong links between Macquarie University and research institutions and businesses within the Macquarie Park corridor,
- (e) to promote the principles of ecologically sustainable development,
- (f) to ensure an appropriate density, form, range, height and distribution of land uses and development.

(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:

advertisements; boarding houses; business premises; child care centres; community facilities; educational establishments; entertainment facilities; function centres; health services facilities; hotel or motel accommodation; information and education facilities; office premises; passenger transport facilities; recreation facilities (indoor); recreation facilities (outdoor); registered clubs; research stations; retail premises; roads; serviced apartments; shop top housing.

(4) Except as otherwise provided by this Part, development is prohibited on land in Zone B4 Mixed Use 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 allow for future expansion of the academic uses within the Macquarie University campus.
- (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).

## **10 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.

## **11 Height of buildings**

- (1) The objectives of this clause are as follows:
- (a) to allow sunlight access to key areas of the public domain,
  - (b) to provide a transition of building heights between localities and street blocks,
  - (c) to provide high quality urban form for all buildings, while maintaining satisfactory sky exposure and daylight to the public areas of the Macquarie University campus,
  - (d) to confine ground level wind speeds to velocities which ensure pedestrian comfort and amenity of the public domain,
  - (e) to ensure that tower development occurs on sites capable of providing appropriate urban form and amenity,
  - (f) to nominate heights that will provide a transition in built form and land use intensity around Macquarie Park railway station and adjoining lower scale localities within and adjacent to the Macquarie University campus.
- (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](#).

## **12 Maximum gross floor area**

- (1) The objectives of this clause are as follows:
  - (a) to ensure that proposals for new buildings are assessed with due regard to the development plan, design excellence, urban design and built form provisions of this Part,
  - (b) to provide sufficient floor space for high quality development for the foreseeable future,
  - (c) to encourage the provision of employment uses which are integrated with the research activities of Macquarie University,
  - (d) to encourage the provision of certain uses and facilities that provide a public benefit,
  - (e) to regulate the density of development and generation of vehicular and pedestrian traffic.
- (2) The gross floor area for a building on any land on the Macquarie University site is not to exceed the gross floor area shown for that land on the [Gross Floor Area Map](#).

## **13 Car parking**

- (1) The objectives of this clause are as follows:
  - (a) to encourage increased use of public transport, walking and cycling as the means of moving people to and within Macquarie University,
  - (b) to encourage commuting by public transport to Macquarie University in order to reduce the number of motor vehicles travelling through and to Macquarie Park,
  - (c) to improve overall environmental quality and pedestrian amenity,
  - (d) to minimise adverse urban design impacts, in particular by discouraging the provision of above ground car parking,
  - (e) to minimise adverse traffic impacts, in particular conflicts between pedestrian and vehicular traffic,
  - (f) to discourage the provision of public car parking,
  - (g) to ensure that tenant car parks are not occupied by persons other than occupiers of the relevant buildings or land on which the car park is situated.
- (2) Car parking provided for use in connection with a building must not result in more than 1 car parking space per 80 square metres of gross floor area.

#### **14 Exceptions to development standards—transitional Part 3A projects**

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

- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (5) Development consent must not be granted for development that contravenes a development standard unless:
- (a) the consent authority is satisfied that:
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (4), and
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development 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 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.

## **16 Public utility infrastructure**

- (1) Development consent must not be granted for development on land in the Macquarie University 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.

### **17 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 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 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 22 Greystanes Southern Employment Lands site**

### **Division 1 Preliminary**

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

This Part applies to the land identified 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 (as in force immediately before the commencement of the *Standard Instrument (Local Environmental Plans) Amendment Order 2011*), 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 (Repealed)**

## **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 transitional Part 3A project.

### **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 Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under [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.

## **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—transitional Part 3A projects**

- (1) A development standard imposed by this or any other environmental planning instrument on development that is part of a transitional Part 3A project, 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 transitional Part 3A project.
- (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 23 Sydney Olympic Park 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 **Sydney Olympic Park site**.

**Note—**

The Sydney Olympic Park site includes additional land to the land that is described as being within the Sydney Olympic Park for the purposes of the [Sydney Olympic Park Authority Act 2001](#).

#### 2 Interpretation

(1) In this Part:

**Acid Sulfate Soils Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Sydney Olympic Park\) 2009 Acid Sulfate Soils Map](#).

**Authority** means the Sydney Olympic Park Authority.

**building height** (or **height of building**) means the vertical distance, measured in metres, between ground level (existing) at any point to the highest point of the highest habitable floor (including above ground car parking) of the building, excluding plant and lift overruns, communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

**Environmental Conservation Areas Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Sydney Olympic Park\) 2009 Environmental Conservation Areas Map](#).

**Floor Space Ratio Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Sydney Olympic Park\) 2009 Floor Space Ratio Map](#).

**Height of Buildings Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Sydney Olympic Park\) 2009 Height of Buildings Map](#).

**heritage conservation area** means one of the following areas of land, as shown on the [Heritage Map](#) as a heritage conservation area:

- (a) State Abattoirs,
- (b) Millennium Parklands.

**heritage item** means a building, work, archaeological site, tree, place or Aboriginal object situated within a heritage conservation area and specified in one of the following documents:

- (a) *Abattoir Heritage Precinct Conservation Management Plan 2003*, dated June 2003,

(b) *Millennium Parklands Heritage Precinct Conservation Master Plan 2003*, dated July 2003,

prepared by Graham Brooks and Associates, a copy of which is held in the head office of the Department.

**Heritage Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Sydney Olympic Park\) 2009 Heritage Map](#).

**high technology industry** means the manufacturing, production, assembling, processing, or research and development, of any of the following:

- (a) electronic and microelectronic systems, goods or components,
- (b) information technology, computer software or hardware,
- (c) instrumentation or instruments,
- (d) biological, pharmaceutical, medical or paramedical systems, goods or components.

**Land Application Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Sydney Olympic Park\) 2009 Land Application Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Sydney Olympic Park\) 2009 Land Zoning Map](#).

**major event** means a business-oriented occasion or a cultural, social or sporting related occasion occurring on a single day, including an exhibition, a festival, a show and other like happening:

- (a) designed for more than 10,000 patrons or participants at a single major event venue, or
- (b) designed for more than 20,000 patrons or participants at two or more major event venues, or
- (c) that involves a total floor area of temporary tents or marquees of more than 1,000 square metres, or
- (d) that involves a total floor area of a temporary stage or platform of more than 300 square metres,

but does not include any use of a major event venue that is consistent with any existing development consent applying to the major event venue.

**major event infrastructure** means traffic and transport infrastructure that supports the access of patrons and participants to and from major events, including the following:

- (a) bus terminals, busways, coachparks or public car parks within the Sydney Olympic Park site,
- (b) the M4 Exit Ramp,
- (c) the major event cross roads, being the Boulevard and Dawn Fraser Avenue,
- (d) the major event loop road, being Edwin Flack Avenue, Sarah Durack Avenue, Kevin Combs Avenue and Australia Avenue,
- (e) the Place Management Centre.

**major event venue** means a facility or public space designed to be used for, or to support, a major event, including the following:

- (a) the Athletics Centre,
- (b) the Aquatic Centre,
- (c) the Carnival Site,
- (d) the Exhibition Halls and Showgrounds,
- (e) the Golf Centre,
- (f) the Hockey Centre,
- (g) Olympic Boulevard,
- (h) The Overflow,
- (i) the Sports Centre,
- (j) the Sports Halls,
- (k) the Stadium,
- (l) the Superdome,
- (m) the Tennis Centre,
- (n) Bicentennial Park,
- (o) Blacksland Riverside Park,
- (p) Newington Armoury.

**master plan** means a master plan under section 18 of the [Sydney Olympic Park Authority Act 2001](#) that has been prepared by the Authority and publicly exhibited in accordance with clause 27 and approved by the Minister, a copy of which is held in the head office of the Department.

**Millennium Parklands Plan of Management** means the *Millennium Parklands Plan of Management*, adopted by the Minister on 28 January 2003, a copy of which is held in the head office of the Department.

**place of Aboriginal heritage significance** means an area of land shown on the [Heritage Map](#) as a place of Aboriginal heritage significance.

**Reduced Level Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Sydney Olympic Park\) 2009 Reduced Level 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](#) (as in force immediately before the commencement of the [Standard Instrument \(Local Environmental Plans\) Amendment Order 2011](#)) unless it is otherwise defined in this Part.

### 3 (Repealed)

### 4 Relationship with other environmental planning instruments

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

### 5 (Repealed)

## Division 2 Provisions relating to development within Sydney Olympic Park site

### 6 Application of Division

- (1) This Division applies to development on land within the Sydney Olympic Park site, except as provided by subclause (2).
- (2) Clauses 7–14, 16 and 22–35 do not apply to development to the extent that it is a transitional Part 3A project.

### 7 Land use zones

- (1) For the purposes of this Part, land within the Sydney Olympic 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 B1 Neighbourhood Centre,
  - (b) Zone B4 Mixed Use,
  - (c) Zone SP2 Infrastructure,

- (d) Zone RE1 Public Recreation,
- (e) Zone E1 National Parks and Nature Reserves,
- (f) Zone E2 Environmental Conservation,
- (g) 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 B1 Neighbourhood Centre**

(1) The objective of Zone B1 Neighbourhood Centre is to provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.

(2) Development for any of the following purposes is permitted without development consent on land within Zone B1 Neighbourhood Centre:

nil.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone B1 Neighbourhood Centre:

business premises; child care centres; community facilities; neighbourhood shops; residential accommodation (but only as part of a mixed use development); roads; shop top housing.

(4) Except as otherwise provided by this Part, development is prohibited on land within Zone B1 Neighbourhood Centre 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 protect and promote the major events capability of the Sydney Olympic Park site and to ensure that it becomes a premium destination for major events,
- (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,
- (c) to ensure that the Sydney Olympic Park site becomes an active and vibrant town centre within metropolitan Sydney,
- (d) to provide for a mixture of compatible land uses,
- (e) to encourage diverse employment opportunities,



- (f) to promote ecologically sustainable development and minimise any adverse effect of land uses on the environment,
  - (g) to encourage the provision and maintenance of affordable housing.
- (2) Development for any of the following purposes is permitted without consent on land within Zone B4 Mixed Use:
- environmental protection works; recreation areas.
- (3) Except as otherwise provided by this Part, development for any of the following purposes is permitted with consent on land within Zone B4 Mixed Use:
- roads; any other development not specified in subclause (2) or (4).
- (4) Development for any of the following purposes is prohibited on land within Zone B4 Mixed Use:
- bulky goods premises; caravan parks; industries; moveable dwellings; resource recovery facilities; restricted premises; rural industries; sex services premises; truck depots; warehouse or distribution centres.

## **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 within Zone SP2 Infrastructure:
- nil.
- (3) Development for any of the following purposes is permitted only with 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; environmental facilities; environmental protection works; roads; signage.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone SP2 Infrastructure unless it is permitted by subclause (2) or (3).

## **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 for a range of recreational settings and activities and compatible land uses,
  - (c) to protect and enhance the natural environment for recreational purposes,
  - (d) to support the Sydney Olympic Park site as a premium destination for major events.
- (2) Development for any of the following purposes is permitted without consent on land within Zone RE1 Public Recreation:
- environmental protection works; roads.
- (3) Development for any of the following purposes is permitted only with consent on land within Zone RE1 Public Recreation:
- boat sheds; car parks; caravan parks; community facilities; depots; entertainment facilities; environmental facilities; filming; food and drink premises; heliports; major events; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); research stations; signage; water recreation structures.
- (4) Except as otherwise provided by this Part, development for any of the following purposes is prohibited on land within Zone RE1 Public Recreation:
- pubs; restaurants; any other development not specified in 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 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 consent on land within Zone E1 National Parks and Nature Reserves:
- nil.
- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone E1 National Parks and Nature Reserves unless it is permitted by subclause (2) or

(3).

### **13 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:

nil.

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

environmental facilities; environmental protection works; filming.

(4) Except as otherwise provided by this Part, 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; service stations; warehouse or distribution centres; any other development not specified in subclause (2) or (3).

### **14 Zone E3 Environmental Management**

(1) The objectives of Zone E3 Environmental Management are as follows:

- (a) to protect, manage and restore areas of 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,
- (c) to assist in giving effect to the Millennium Parklands Plan of Management,
- (d) to support the capability of the Sydney Olympic Park site as a premium destination for major events.

(2) Development for any of the following purposes is permitted without 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 consent on land

within Zone E3 Environmental Management:

community facilities; depots; dwelling houses; educational establishments; environmental facilities; filming; kiosks; recreation areas; recreation facilities (outdoor); research stations; roads; signage; water recreation structures.

(4) 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).

### **15 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.

### **16 Subdivision—consent requirements**

- (1) Land within the Sydney Olympic Park 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) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
  - (c) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
  - (d) rectifying an encroachment on a lot,
  - (e) creating a public reserve,
  - (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

### **17 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 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 Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

## 18 Height of buildings

The height of a building on any land within the Sydney Olympic Park site is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#) or the [Reduced Level Map](#), whichever is applicable.

## 19 Floor space ratio

The maximum floor space ratio for a building on any land within the Sydney Olympic Park site is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#).

## 20 Calculation of floor space ratio and site area

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

- (a) to define **floor space ratio**,
- (b) to set out rules for the calculation of the site area of development for the purpose of applying permitted floor space ratios.

(2) **Definition of "floor space ratio"** The **floor space ratio** of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

(3) **Site area** In determining the site area of proposed development for the purpose of applying a floor space ratio, the **site area** is taken to be:

- (a) if the proposed development is to be carried out on only one lot, the area of that lot, or
- (b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.

In addition, subclauses (4)–(6) apply to the calculation of site area for the purposes of applying a floor space ratio to proposed development.

(4) **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.

(5) **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.

(6) **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.

(7) **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 in favour of a prescribed authority within the meaning of section 88E of the *Conveyancing Act 1919* 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.

(8) **Covenants affect consolidated sites** If:

(a) a covenant of the kind referred to in subclause (7) applies to any land (***affected land***), and

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

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

## **21 Exceptions to development standards—transitional Part 3A projects**

(1) A development standard imposed by this or any other environmental planning instrument on development that is part of a transitional Part 3A project, and is within the Sydney Olympic Park 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.

## **22 Exceptions to development standards—other development**

(1) This clause applies to development on land within the Sydney Olympic Part site, other than development that is part of a transitional Part 3A project.

(2) The objectives of this clause are:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (3) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (4) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (5) Development consent must not be granted for development that contravenes a development standard unless:
- (a) the consent authority is satisfied that:
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (4), and
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - (b) the concurrence of the Director-General has been obtained.
- (6) In deciding whether to grant concurrence, the Director-General must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (7) 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.

### **23 Public utility infrastructure**

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

### **24 Major events capability**

- (1) The objective of this clause is to protect and promote the major events capability of the Sydney Olympic Park site and to ensure that it remains a premium destination for major events.
- (2) Consent must not be granted to development on land within the Sydney Olympic Park site, if the consent authority is satisfied that during major events held within the Sydney Olympic Park site:
- (a) traffic generated by the development is likely to cause the local road network and connections to the regional road network to become saturated or otherwise fail, and



- (b) the development is likely to prevent the effective management of crowd movement and transport services, and
- (c) the development is likely to compromise the effective functioning of major event infrastructure, and
- (d) the development conflicts with the emergency management plans of government agencies or the emergency evacuation plans of major event venues.

## **25 Transport**

Development consent must not be granted for development on land within the Sydney Olympic Park site unless the consent authority is satisfied that the development includes measures to promote public transport use, cycling and walking.

## **26 Master plan**

- (1) Development consent must not be granted for development on land within the Sydney Olympic Park site to which a master plan applies unless the consent authority has considered that master plan, except as provided by subclauses (2) and (3).
- (2) Consideration of a master plan is not required if the consent authority is satisfied that:
  - (a) the development involves a temporary use of the land, and
  - (b) the development is of a minor nature.
- (3) Development consent must not be granted for development on land within 400 metres of the Olympic Park Train Station unless the consent authority has considered whether the car parking requirements specified in the master plan should be reduced in respect of that development.

## **27 Preparation and approval of a master plan**

- (1) A master plan must be prepared by the Authority as a draft plan and publicly exhibited in accordance with this clause.
- (2) A draft plan must comply with the following public exhibition requirements:
  - (a) public notice of the draft plan must be given in a newspaper circulating throughout the State and in a local newspaper,
  - (b) the public notice must include the places, dates and times for inspection of the draft plan and must specify a period during which submissions concerning the draft plan may be made to the Authority,
  - (c) the period of public exhibition must be at least 30 days,
  - (d) the period during which submissions may be made to the Authority must include

the period of public exhibition,

- (e) the draft plan must be publicly exhibited in accordance with the notice as referred to in paragraph (b),
  - (f) before the draft plan is publicly exhibited, copies of the draft plan must be given to each council whose local government area includes the land to which the draft plan applies or any other land that in the opinion of the Authority is likely to be affected by the proposals contained in the draft plan.
- (3) Submissions received during the period specified in subclause (2) (d) and any submissions received from a council within 30 days of the council being given a copy of the draft plan under subclause (2) (f) must be taken into consideration.
  - (4) A master plan that is approved by the Minister may be in the same form or a different form as the draft plan that is publicly exhibited.
  - (5) The approval of a master plan by the Minister must be publicly advertised by the Authority in a newspaper circulating throughout the State and a local newspaper.
  - (6) The provisions of this clause apply to the amendment of a master plan in the same way as they apply to a master plan.

## **28 Review of master plan**

The Authority is to review a master plan as soon as possible after the period of 5 years from the date the master plan has effect and is to report on the outcome of the review to the Minister.

## **29 Development within an environmental conservation area**

- (1) This clause applies to land within the Sydney Olympic Park site that is shown on the [Environmental Conservation Areas Map](#) as within an environmental conservation area.
- (2) Despite any other provision of this Part, the following development may only be carried out with development consent on land within an environmental conservation area:
  - (a) filling, clearing, draining or dredging the land,
  - (b) constructing a levee on the land,
  - (c) removing or destroying any vegetation on the land.
- (3) Before granting development consent to development on land within an environmental conservation area, the consent authority must consider the likely effect of the proposed development on that environmental conservation area.
- (4) Development consent must not be granted for development on land to which this

clause applies if, in the opinion of the consent authority, the development would reduce significantly the ecological value of that environmental conservation area.

### 30 Design excellence

- (1) Development consent must not be granted for development that is the erection of a new building or external alterations to an existing building unless the consent authority:
  - (a) has considered whether the proposed development exhibits design excellence, and
  - (b) in the case of a building that will attain the maximum height shown for that land on the [Height of Buildings Map](#) or the [Reduced Level Map](#) (whichever is the lesser), is satisfied that the 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) Development 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 with a building height greater than 42 metres above ground level (existing),
  - (b) the erection of a new building identified as requiring a design competition in a master plan.
- (4) In this clause:

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

### 31 Heritage conservation

- (1) **Requirement for consent** Development consent is required for any of the following:

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

(2) **When consent not required** However, consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
  - (i) is of a minor nature, or is for the maintenance of the heritage item, archaeological site, or a building, work, relic, tree or place within a heritage conservation area, and
  - (ii) would not adversely affect the significance of the heritage item, archaeological site or heritage conservation area, or
- (b) the development is limited to the removal of a tree or other vegetation that the consent authority is satisfied is a risk to human life or property, or
- (c) the development is exempt development.

(3) **Effect on heritage significance** The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (4) or a heritage conservation management plan is submitted under subclause (5).

- (4) **Heritage impact assessment** The consent authority may, before granting consent to any development on land:
- (a) on which a heritage item is situated, or
  - (b) within a heritage conservation area, or
  - (c) within the vicinity of land referred to in paragraph (a) or (b),
- require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.
- (5) **Places of Aboriginal heritage significance** The consent authority must, before granting consent under this clause to the carrying out of development in a place of Aboriginal heritage significance:
- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place, and
  - (b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.

### 32 Additional permitted uses—Site 62

- (1) This clause applies to site 62 within the Sydney Olympic Park site as shown hatched on the [Land Zoning Map](#).
- (2) Despite any other provision of this Part, a person may, with development consent, carry out development for the purpose of a high technology industry on land to which this clause applies.

### 33 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 Schedule 8 to this Policy in the Part relating to the Sydney Olympic Park site that meets the standards for the development contained in that Part 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*, or if those provisions do not apply, must be structurally adequate, 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* or that is a heritage item under this Part, and
  - (e) must be located at least 1 metre from any registered easement, sewer main or water main, and
  - (f) must not result in the disturbance of more than one tonne of soil, or lower the water table on land shown on the [Acid Sulfate Soils Map](#), and
  - (g) must not cause the contravention of the conditions of any development consent or notice under section 28 of the *Contaminated Land Management Act 1997* currently applying to the land.
- (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.

### 34 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 that is specified in Schedule 9 to this Policy in the Part relating to the Sydney Olympic Park site that is carried out in compliance with:

- (a) the development standards specified in that Part, 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 land use zone in which it is carried out, and
- (b) meet the relevant provisions of the *Building Code of Australia*, and
- (c) have a prior approval, if required by the *Local Government Act 1993*, for:
  - (i) an on-site effluent disposal system if the development is undertaken on unsewered land, and
  - (ii) an on-site stormwater drainage system.

### **35 Environmentally sensitive areas**

(1) To be exempt development or complying development, the development must not be carried out on land that is an environmentally sensitive area.

(2) For the purposes of this clause:

***environmentally sensitive area*** 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 100m 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](#).

## Part 24 Sandon Point 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 **Sandon Point site**.

#### 2 Interpretation

(1) In this Part:

**council** means the Wollongong City Council.

**Floor Space Ratio Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Sandon Point\) 2009 Floor Space Ratio Map](#).

**Height of Buildings Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Sandon Point\) 2009 Height of Buildings Map](#).

**heritage item** means a building, work, archaeological site, tree, place or Aboriginal object shown on the [Heritage Map](#) as a heritage item.

**Heritage Map** means the [State Environmental Planning Policy \(Major Development\)](#)



[Amendment \(Sandon Point\) 2009 Heritage Map](#).

**Land Application Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Sandon Point\) 2009 Land Application Map](#).

**Land Reservation Acquisition Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Sandon Point\) 2009 Land Reservation Acquisition Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) Amendment \(Sandon Point\) 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](#) (as in force immediately before the commencement of the [Standard Instrument \(Local Environmental Plans\) Amendment Order 2011](#)) unless it is otherwise defined in this Part.

### 3 Consent authority

The consent authority for development on land within the Sandon Point site, other than development that is a transitional Part 3A project, is the council.

### 4 (Repealed)

### 5 Relationship with other environmental planning instruments

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

- (a) [State Environmental Planning Policy No 1—Development Standards](#), and
- (b) [State Environmental Planning Policy No 71—Coastal Protection](#).

## Division 2 Provisions relating to development in Sandon Point site

### 6 Application of Division

- (1) This Division applies to development on land within the Sandon Point site, except as provided by subclause (2).
- (2) Clauses 8–11, 13, 18–23 and 25 do not apply to development to the extent that it is a transitional Part 3A project.

### 7 Land use zones

For the purposes of this Part, land within the Sandon Point site is in one of the following zones if the land is shown on the [Land Zoning Map](#) as being within that zone:

- (a) Zone R2 Low Density Residential,
- (b) Zone R3 Medium Density Residential,
- (c) 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 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 minimise the impact of non-residential development on residential development (such as impacts relating to operating hours, noise, loss of privacy and vehicular and pedestrian traffic),
- (d) to ensure that development does not destroy, damage or otherwise adversely affect the ability to protect, manage and restore waterways and riparian corridors.

(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:

bed and breakfast accommodation; boarding houses; car parks; child care centres; community facilities; dual occupancies; dwelling houses; educational establishments; environmental facilities; exhibition homes; exhibition villages; filming; group homes; health consulting rooms; home-based child care; home businesses; home industries; hospitals; hostels; information and education facilities; multi dwelling housing; neighbourhood shops; places of public worship; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); secondary dwellings; semi-detached dwellings; shop top housing; signage; 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 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 or services to meet the day to day needs of residents,
  - (d) to minimise the impact of non-residential development on residential development (such as impacts relating to operating hours, noise, loss of privacy and vehicular and pedestrian traffic),
  - (e) to ensure that development does not destroy, damage or otherwise adversely affect the ability to protect, manage and restore waterways and riparian corridors.
- (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; roads.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R3 Medium Density Residential:

attached dwellings; backpackers' accommodation; bed and breakfast accommodation; boarding houses; car parks; child care centres; community facilities; dual occupancies; dwelling houses; educational establishments; environmental facilities; exhibition homes; exhibition villages; filming; group homes; health consulting rooms; home-based child care; home businesses; hospitals; hostels; information and education facilities; multi dwelling housing; neighbourhood shops; places of public worship; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); residential flat buildings; secondary dwellings; semi-detached dwellings; serviced apartments; shop top housing; signage; veterinary hospitals.
- (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 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,
  - (c) to provide for the conservation and rehabilitation of native vegetation on highly environmentally significant land,
  - (d) to prevent the clearing of native vegetation.
- (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; filming; recreation areas; roads.
- (4) Except as otherwise provided by this Part, 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; service stations; warehouse or distribution centres; any other development not specified in subclause (2) or (3).

## **12 Prohibited development**

Development, other than development that is permitted with or without development consent on land within a zone, is prohibited on land within that zone.

## **13 Subdivision—consent requirements**

- (1) A subdivision of land within the Sandon Point site 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 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.

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

- (1) The height of a building on any land within the Sandon Point site is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).
- (2) The maximum floor space ratio of a building on any land within the Sandon Point site is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#).
- (3) This clause does not apply to development if the Minister, in an approval for a concept plan for the development (whether given before or after the commencement of this clause), provides for the construction of a building that exceeds the height or floor space ratio restrictions, or both, set out in subclauses (1) and (2).

#### **15 Development in proximity to a rail corridor**

- (1) This clause applies to land within the Sandon Point site that:
  - (a) comprises, or is within 60 metres of, an operating railway line or land reserved for the construction of a railway line, and
  - (b) is or is likely to be adversely affected by rail noise or vibration.
- (2) Development must not be undertaken on land to which this clause applies unless the development incorporates all practical mitigation measures for rail noise or vibration recommended by Rail Corporation New South Wales for development of that kind.

#### **16 Controls relating to miscellaneous uses**

- (1) **Bed and breakfast accommodation** Development for the purposes of bed and breakfast accommodation on land within the Sandon Point site must not involve the provision of more than 3 bedrooms for accommodation for guests.
- (2) **Home businesses** Development for the purposes of a home business on land within the Sandon Point site must not involve the use of more than 30 square metres of floor area for the carrying on of the business.
- (3) **Home industries** Development for the purposes of a home industry on land within the Sandon Point site must not involve the use of more than 50 square metres of floor area for the carrying on of the light industry.
- (4) **Neighbourhood shops** Development for the purposes of a neighbourhood shop on land within the Sandon Point site must not have a retail floor area that exceeds 100 square metres.
- (5) **Secondary dwellings** Development for the purposes of a secondary dwelling on land

within the Sandon Point site must not have a total floor area for the dwelling (excluding any area used for parking) that exceeds whichever of the following is the greater:

- (a) 60 square metres,
- (b) 40% of the total floor area of both the self-contained dwelling and the principal dwelling.

#### **17 Exceptions to development standards—transitional Part 3A projects**

- (1) A development standard imposed by this or any other environmental planning instrument on development that is part of a transitional Part 3A project, and is on land within the Sandon Point 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 on land within the Sandon Point site, other than development that is part of a transitional Part 3A project.
- (2) The objectives of this clause are:
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (3) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

- (4) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (5) Development consent must not be granted for development that contravenes a development standard unless:
  - (a) the consent authority is satisfied that:
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (4), and
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - (b) the concurrence of the Director-General has been obtained.
- (6) In deciding whether to grant concurrence, the Director-General must consider:
  - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (7) Development consent must not be granted under this clause for a subdivision of land in Zone E2 Environmental Conservation if:
  - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
  - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (8) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (4).

- (9) This clause does not allow development consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
  - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated.

## **19 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) Development consent must not be granted to development on land within the Sandon Point 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 water bodies, 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) Development consent must not be granted to development on land within the Sandon Point 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.

## **20 Architectural roof features**

- (1) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 14 may be carried out, but only with consent.
- (2) 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.

## 21 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, 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 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 that is or forms part of a heritage item.

**Note—**

As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 22 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*.

## **22 Heritage conservation**

(1) Development consent is required for any of the following:

- (a) demolishing or moving a heritage item,
- (b) altering a heritage item including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
- (c) altering a heritage item that is a building by making structural changes to its interior,
- (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (e) erecting a building on land on which a heritage item is located,
- (f) subdividing land on which a heritage item is located.

(2) However, consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
  - (i) is of a minor nature, or is for the maintenance of the heritage item or archaeological site, and
  - (ii) would not adversely affect the significance of the heritage item, or
- (b) the development is in a cemetery or burial ground and the proposed development:
  - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
  - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to a place of Aboriginal heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the council is satisfied is a risk to human life or property, or

(d) the development is exempt development.

### **23 Public utility infrastructure**

- (1) Development consent must not be granted for development on land within the Sandon Point 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.

### **24 Infrastructure development and use of existing buildings of the Crown**

- (1) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under the [State Environmental Planning Policy \(Infrastructure\) 2007](#).
- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

### **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 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**

Nil

**Note 1—**

At the commencement of this Part, the [Land Reservation Acquisition Map](#) showed no land for acquisition.

**Note 2—**

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](#)).

- (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.

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

- (1) For the purpose of enabling development on land within the Sandon Point site to be carried out in accordance with this Part 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) Pursuant to section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).

## Part 25 Wahroonga Estate 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 **Wahroonga Estate site**.

#### 2 Interpretation

(1) In this Part:

**Gross Floor Area Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Wahroonga Estate Gross Floor Area Map](#).

**Height of Buildings Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Wahroonga Estate Height of Buildings Map](#).

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

(a) shown on the [Heritage Map](#) as a heritage item, and

(b) the location and nature of which is described in the Table to clause 24 (8).

**Heritage Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Wahroonga Estate Heritage Map](#).

**Land Application Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Wahroonga Estate Land Application Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Wahroonga Estate Land Zoning Map](#).

**place of Aboriginal heritage significance** means an area of land shown on the [Heritage Map](#) that is:

(a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the

occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or

- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

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

**Note—**

The land concerned is situated partly in the local government area of Hornsby and partly in the local government area of Ku-ring-gai.

- (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* (as in force immediately before the commencement of the *Standard Instrument (Local Environmental Plans) Amendment Order 2011*) unless it is otherwise defined in this Part.

### **3 Consent authority**

The consent authority for development on land within the Wahroonga Estate site, other than development that is a transitional Part 3A project, is the relevant council.

### **4 (Repealed)**

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

The only environmental planning instruments that apply, according to their terms, to land within the Wahroonga Estate site are:

- (a) this Policy, and
- (b) all other State environmental planning policies, other than *State Environmental Planning Policy No 1—Development Standards*.

## **Division 2 Provisions relating to development in Wahroonga Estate site**

### **6 Application of Division**

- (1) This Division applies to development on land within the Wahroonga Estate site, except as provided by subclause (2).
- (2) Clauses 8–15, 17, 21–25 and 27 do not apply to development to the extent that it is a transitional Part 3A project.



## **7 Land use zones**

For the purposes of this Part, land within the Wahroonga Estate site is in one of the following zones if the land is shown on the [Land Zoning Map](#) as being within that zone:

- (a) Zone R1 General Residential,
- (b) Zone R2 Low Density Residential,
- (c) Zone R3 Medium Density Residential,
- (d) Zone R4 High Density Residential,
- (e) Zone B1 Neighbourhood Centre,
- (f) Zone SP1 Special Activities,
- (g) 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 R1 General Residential**

(1) The objectives of Zone R1 General Residential are as follows:

- (a) to provide for the housing needs of the community,
- (b) to provide for a variety of housing types and densities,
- (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents.

(2) Development for any of the following purposes is permitted without development consent on land within Zone R1 General Residential:

home occupations.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone R1 General Residential:

attached dwellings; boarding houses; child care centres; community facilities; dwelling houses; group homes; hostels; multi dwelling housing; neighbourhood shops; places of public worship; residential flat buildings; roads; semi-detached dwellings; seniors housing; shop top housing.

(4) Except as otherwise provided by this Part, development is prohibited on land within Zone R1 General Residential unless it is permitted by subclause (2) or (3).

## **10 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 ensure that housing is compatible with the existing environmental character of the area.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone R2 Low Density Residential:

home-based child care; 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; boarding houses; child care centres; community facilities; drainage; dual occupancies; dwelling houses; earthworks; educational establishments; environmental protection works; health consulting rooms; home businesses; home industries; neighbourhood shops; places of public worship; recreation areas; roads; secondary dwellings; seniors housing; signage.
- (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).

## **11 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 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 R3 Medium Density Residential:

home-based child care; 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; bed and breakfast accommodation; boarding houses; child care centres; community facilities; drainage; dual occupancies; dwelling houses; earthworks; educational establishments; environmental protection works; group homes; home businesses; home industries; hostels; multi dwelling housing; neighbourhood shops; places of public worship; recreation areas; roads; secondary dwellings; semi-detached dwellings; 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).

## **12 Zone R4 High Density Residential**

- (1) The objectives of Zone R4 High Density Residential are as follows:

- (a) to provide for the housing needs of the community within a high density residential environment,
- (b) to provide a variety of housing types within a high density residential environment,
- (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents.

- (2) Development for any of the following purposes is permitted without development consent on land within Zone R4 High Density Residential:

home occupations.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R4 High Density Residential:

bed and breakfast accommodation; boarding houses; child care centres; community facilities; drainage; dwelling houses; earthworks; educational establishments; environmental protection works; group homes; health consulting rooms; home businesses; home industries; hostels; medical centres; multi dwelling housing; neighbourhood shops; places of public worship; recreation areas; residential flat buildings; roads; seniors housing; serviced apartments; shop top housing.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone R4 High Density Residential unless it is permitted by subclause (2) or (3).

## **13 Zone B1 Neighbourhood Centre**

- (1) The objective of Zone B1 Neighbourhood Centre is to provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.

- (2) Development for any of the following purposes is permitted without development consent on land within Zone B1 Neighbourhood Centre:

home occupations.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone B1 Neighbourhood Centre:

business premises; car parks; child care centres; community facilities; drainage; earthworks; environmental protection works; food and drink premises (other than pubs); office premises; places of public worship; public administration buildings; roads; shop top housing; shops; signage; veterinary hospitals.

- (4) Except as otherwise provided by this Part, development is prohibited on land within Zone B1 Neighbourhood Centre unless it is permitted by subclause (2) or (3).

#### **14 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:

earthworks; roads; 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 Part, development is prohibited on land within Zone SP1 Special Activities 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:

drainage; earthworks; environmental facilities.

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

## **16 Prohibited development**

Development on land within the Wahroonga Estate site that is part of a transitional Part 3A project is prohibited if it would be prohibited were it development to which Part 4 of the Act applies.

## **17 Subdivision—consent requirements**

(1) Land within the Wahroonga Estate 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.

## **18 Height and gross floor area restrictions**

(1) The height of a building on any land within the Wahroonga Estate site is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#).

- (2) The total gross floor area of all buildings (excluding the floor area of dwellings) within a precinct must not exceed the gross floor area shown for the precinct on the [Gross Floor Area Map](#).
- (3) For the purposes of subclause (2), a precinct is an area within the Wahroonga Estate site shown by distinctive colouring on the [Gross Floor Area Map](#).
- (4) This clause does not apply to a transitional Part 3A project to the extent to which an approval for a concept plan for the project (whether given before or after the commencement of this clause) provides for a building or buildings that exceeds or exceed the height or gross floor area restrictions, or both, set out in subclauses (1) and (2).

### **19 Maximum number of dwellings**

A person must not erect a dwelling on land within the Wahroonga Estate site if, as a result, the number of dwellings within that site would exceed 500.

### **20 Exceptions to development standards—transitional Part 3A projects**

- (1) A development standard imposed by this or any other environmental planning instrument on development that is part of a transitional Part 3A project, and is on land within the Wahroonga Estate 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.

### **21 Exceptions to development standards—other development**

- (1) This clause applies to development on land within the Wahroonga Estate site, other than development that is part of a transitional Part 3A project.
- (2) The objectives of this clause are:
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and

- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (3) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (4) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (5) Development consent must not be granted for development that contravenes a development standard unless:
  - (a) the consent authority is satisfied that:
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (4), and
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - (b) the concurrence of the Director-General has been obtained.
- (6) In deciding whether to grant concurrence, the Director-General must consider:
  - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (7) Development consent must not be granted under this clause for a subdivision of land in Zone SP1 Special Activities or Zone E2 Environmental Conservation.
- (8) After determining a development application made pursuant to this clause, the

consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (4).

- (9) This clause does not allow development consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
  - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated.

## **22 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.

## **23 Preservation of trees or vegetation**

- (1) The objective of this clause is to preserve the amenity of the Wahroonga Estate site through the preservation of trees.
- (2) This clause applies to a tree that meets the criteria set out under the heading "What is a tree under this Order?" in the tree preservation order made under clause 42 of the *Ku-ring-gai Planning Scheme Ordinance* and adopted by the Ku-ring-gai Council on 12 December 2006, but does not apply to a tree of a species described as an exempt tree species in that order.
- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree to which this clause applies on the Wahroonga Estate site without the authority conferred by:
  - (a) development consent, or
  - (b) a permit granted by the relevant council.
- (4) The refusal by the relevant council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the relevant council to grant consent for the carrying out of the activity for which a permit was sought.
- (5) This clause does not apply to a tree that the relevant council is satisfied is dying or dead and is not required as the habitat of native fauna.



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

**Note—**

As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 24 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) 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
  - (c) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

## **24 Heritage conservation**

- (1) **Objectives** The objectives of this clause are:
  - (a) to conserve the environmental heritage of the Wahroonga Estate site, and
  - (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and
  - (c) to conserve places of Aboriginal heritage significance.
- (2) **Requirement for consent** Development consent is required for any of the following:
  - (a) demolishing or moving a heritage item,
  - (b) altering a heritage item, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
  - (c) altering a heritage item that is a building by making structural changes to its interior,
  - (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
  - (e) disturbing or excavating a place of Aboriginal heritage significance,
  - (f) erecting a building on land on which a heritage item is located,

(g) subdividing land on which a heritage item is located.

(3) **When consent not required** However, consent under this clause is not required if:

(a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:

(i) is of a minor nature, or is for the maintenance of the heritage item or archaeological site, and

(ii) would not adversely affect the significance of the heritage item or archaeological site, or

(b) the development is limited to the removal of a tree or other vegetation that the relevant Council is satisfied is a risk to human life or property, or

(c) the development is exempt development.

(4) **Effect on heritage significance** The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item concerned.

(5) **Heritage impact assessment** The consent authority may, before granting consent to any development on land:

(a) on which a heritage item is situated, or

(b) within the vicinity of land on which a heritage item is situated,

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 concerned.

(6) **Places of Aboriginal heritage significance** The consent authority must, before granting consent under this clause to the carrying out of development in a place of Aboriginal heritage significance:

(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place, and

(b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.

(7) **Conservation incentives** The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be

allowed by this Part, if the consent authority is satisfied that:

- (a) the conservation of the heritage item is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

(8) For the purposes of paragraph (b) of the definition of **heritage item** in clause 2 (1), the location and nature of a heritage item is specified in the following Table:

**Table—heritage items**

Item description	Address	Property description
Administrative headquarters, Seventh Day Adventist Church	148 Fox Valley Road, Wahroonga	Lot 621, DP 1128314

## 25 Public utility infrastructure

- (1) Development consent must not be granted for development on land within the Wahroonga Estate site unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.
- (3) In this clause, **public utility infrastructure** includes infrastructure for any of the following:
  - (a) the supply of water,
  - (b) the supply of electricity or gas,
  - (c) the disposal and management of sewage.

## 26 Infrastructure development and use of existing buildings of the Crown

- (1) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the

carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under the *State Environmental Planning Policy (Infrastructure) 2007*.

- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

## **27 Temporary use of land**

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Part, development consent may be granted for development on land within the Wahroonga Estate site in any zone for a temporary purpose for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that:
  - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Part and any other applicable environmental planning instrument, and
  - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
  - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
  - (d) at the end of the temporary use period the site will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.
- (4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or housing estate may exceed 52 days (whether or not consecutive days) in any period of 12 months.
- (5) Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).

## Part 26 Rise Bilambil Heights 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 **Rise Bilambil Heights site**.

#### 2 Interpretation

(1) In this Part:

**council** means the Tweed Shire Council.

**Height of Buildings Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Rise Bilambil Heights Height of Buildings Map](#).

**Land Application Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Rise Bilambil Heights Land Application Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Rise Bilambil Heights 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](#) (as in force immediately before the commencement of the [Standard Instrument \(Local Environmental Plans\) Amendment Order 2011](#)) unless it is otherwise defined in this Part.

#### 3 Consent authority

The consent authority for development on land within the Rise Bilambil Heights site is the council.

#### 4 (Repealed)

#### 5 Relationship with other environmental planning instruments

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

### Division 2 Provisions relating to development in Rise Bilambil Heights

## **site**

### **6 Land use zones**

For the purposes of this Part, land within the Rise Bilambil Heights site is in one of the following zones if the land is shown on the [Land Zoning Map](#) as being within that zone:

- (a) Zone R1 General Residential,
- (b) Zone B4 Mixed Use,
- (c) Zone E2 Environmental Conservation.

### **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 development consent on land within Zone R1 General Residential:

environmental protection works; home occupations.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone R1 General Residential:

attached dwellings; child care centres; community facilities; dwelling houses; educational establishments; environmental facilities; food and drink premises; group homes; health consulting rooms; home businesses; home industries; hostels; kiosks; markets; multi dwelling housing; neighbourhood shops; places of public worship; public administration buildings; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); residential flat buildings; roads; semi-detached dwellings; seniors housing; shop top housing; shops; tourist and visitor accommodation; water supply systems.

(4) Except as otherwise provided by this Part, development is prohibited on land within Zone R1 General 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 development consent on land within Zone B4 Mixed Use:

environmental protection works; home occupations.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone B4 Mixed Use:

business premises; child care centres; community facilities; educational establishments; entertainment facilities; food and drink premises; function centres; home businesses; home industries; hostels; hotel or motel accommodation; information and education facilities; office premises; passenger transport facilities; recreation areas; recreation facilities (indoor); registered clubs; residential flat buildings; retail premises; roads; seniors housing; shop top housing; water supply systems.

(4) Except as otherwise provided by this Part, development is prohibited on land within Zone B4 Mixed Use 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:

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; roads.

(4) Except as otherwise provided by this Part, 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; any other development not specified in subclause (2) or (3).

### **11 Subdivision—consent requirements**

- (1) Land within the Rise Bilambil Heights 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.

### **12 Height of buildings**

- (1) The objectives of this clause are as follows:
  - (a) to establish the maximum height for which a building can be designed,
  - (b) to ensure that building height relates to the land's capacity to provide and maintain an appropriate urban character and level of amenity,
  - (c) to ensure that taller development is located in more structured urbanised areas that are serviced by urban support facilities,
  - (d) to encourage greater population density in less car-dependent urban areas,
  - (e) to enable a transition in building heights between urban areas comprised of different characteristics,
  - (f) to limit the impact of the height of a building on the existing natural and built environment,



- (g) to prevent gross overshadowing impacts on the natural and built environment.
- (2) The height of a building on any land within the Rise Bilambil Heights site is not to exceed the maximum height shown for the land on the [Height of Buildings 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 of building set out in subclause (2).

### **13 Exceptions to development standards**

- (1) This clause applies to development on land within the Rise Bilambil Heights site.
- (2) The objectives of this clause are:
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (3) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (4) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (5) Development consent must not be granted for development that contravenes a development standard unless:
  - (a) the consent authority is satisfied that:
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (4), and
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for

development within the zone in which the development is proposed to be carried out, and

- (b) the concurrence of the Director-General has been obtained.
- (6) In deciding whether to grant concurrence, the Director-General must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (7) Development consent must not be granted under this clause for a subdivision of land in Zone E2 if:
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
  - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (8) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (4).
- (9) This clause does not allow development consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
  - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated.

#### **14 Controls relating to miscellaneous uses**

- (1) **Bed and breakfast accommodation** Development for the purposes of bed and breakfast accommodation on land within the Rise Bilambil Heights site must not involve the provision of more than 6 bedrooms for accommodation for guests.
- (2) **Farm stay accommodation** Development for the purposes of farm stay accommodation on land within the Rise Bilambil Heights site must not involve the provision of more than 12 bedrooms for accommodation for guests.
- (3) **Home businesses** Development for the purposes of a home business on land within the

Rise Bilambil Heights site must not involve the use of more than 40 square metres of floor area for the carrying on of the home business.

- (4) **Home industries** Development for the purposes of a home industry on land within the Rise Bilambil Heights site must not involve the use of more than 60 square metres of floor area for the carrying on of the home industry.
- (5) **Kiosks** Development for the purposes of a kiosk on land within the Rise Bilambil Heights site must not have a gross floor area that exceeds 15 square metres.
- (6) **Neighbourhood shops** Development for the purposes of a neighbourhood shop on land within the Rise Bilambil Heights site must not have a retail floor area that exceeds 300 square metres.
- (7) **Roadside stalls** Development for the purposes of a roadside stall on land within the Rise Bilambil Heights site must not have a gross floor area that exceeds 30 square metres.

#### **15 Arrangements for designated State public infrastructure**

- (1) This clause applies to land in Zones R1 General Residential and B4 Mixed Use within the Rise Bilambil Heights 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 utility undertakings, 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 and bus lanes,
  - (c) land required for regional open space,
  - (d) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

#### **16 Public utility infrastructure**

- (1) Development consent must not be granted for development on land within the Rise Bilambil Heights site unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.
- (3) In this clause, **public utility infrastructure** includes infrastructure for any of the following:
  - (a) the supply of water,
  - (b) the supply of electricity or gas,
  - (c) the disposal and management of sewage.

#### **17 Infrastructure development and use of existing buildings of the Crown**

- (1) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under the [State Environmental Planning Policy \(Infrastructure\) 2007](#).
- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

#### **18 Relevant acquisition authority**

- (1) The objective of this clause is to identify, for the purposes of section 27 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2

of the *Land Acquisition (Just Terms Compensation) Act 1991* (**the owner-initiated acquisition provisions**).

**Note—**

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

- (2) The authority of the State that will be the relevant authority to acquire land, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to the land shown on the [Land Reservation Acquisition Map](#) (or, if an authority of the State is not specified in relation to land required to be so acquired, the authority designated or determined under those provisions).

**Type of land shown on Map**

**Authority of the State**

(When this clause commenced this Table was blank.)

**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*).

- (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.

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

- (1) For the purpose of enabling development on land within the Rise Bilambil Heights site to be carried out in accordance with this Part 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 27 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 \(Major Development\) 2005 Huntlee New Town Site Land Application Map](#).

**Land Reservation Acquisition Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Huntlee New Town Site Land Reservation Acquisition Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Huntlee New Town Site Land Zoning Map](#).

**Lot Size Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Huntlee New Town Site Lot Size 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 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* (as in force immediately before the commencement of the *Standard Instrument (Local Environmental Plans) Amendment Order 2011*) unless it is otherwise defined in this Part.

### **3 (Repealed)**

### **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, 15, 16 and 19–25 do not apply to development within the Huntlee New Town site to the extent that it is a transitional Part 3A project.

### **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 R2 Low Density Residential,
- (c) Zone R5 Large Lot Residential,
- (d) Zone B4 Mixed Use,
- (e) Zone E1 National Parks and Nature Reserves,
- (f) Zone E3 Environmental Management.

## **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.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone R1 General Residential:

attached dwellings; bed and breakfast accommodation; child care centres; community facilities; dwelling houses; exhibition villages; food and drink premises; home-based child care; home businesses; home industries; home occupations; hostels; kiosks; markets; multi dwelling housing; neighbourhood shops; places of public worship; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); residential flat buildings; roads; semi-detached dwellings; seniors housing; serviced apartments; 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 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; child care centres; dwelling houses; environmental facilities; home-based child care; recreation areas; recreation facilities (outdoor); roads; semi-detached dwellings; seniors housing.

- (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 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; home occupations.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone R5 Large Lot Residential:

bed and breakfast accommodation; cellar door premises; dwelling houses; environmental facilities; farm stay accommodation; home businesses; home industries; horticulture; neighbourhood shops; recreation areas; roads; roadside stalls; viticulture.

- (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).

## **11 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; home occupations.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone B4 Mixed Use:

business premises; car parks; child care centres; community facilities; dwelling houses; entertainment facilities; function centres; highway service centres; information and education facilities; light industries; multi dwelling housing; office premises; passenger transport facilities; places of public worship; recreation areas; 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).

## **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 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 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).

### **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 consent on land within Zone E3 Environmental Management:  
environment 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; filming; flood mitigation works; home industries; information and education facilities; kiosks; neighbourhood shops; recreation areas; roads; roadside stalls.
- (4) Except as otherwise provided by this Policy, development is prohibited on land within Zone E3 Environmental Management unless it is permitted by subclause (2) or (3).

### **14 Prohibited development**

Development on land within the Huntlee New Town Site that is part of a transitional Part 3A project is prohibited if it would be prohibited were it development to which Part 4 of the Act applies.

### **15 Interim land uses**

- (1) Despite any other provision of this Part, development on land in Zone R1 General Residential, Zone R2 Low Density Residential or Zone B4 Mixed Use 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) a minor realignment of boundaries that does not create:
    - (i) additional lots or the opportunity for additional buildings, or
    - (ii) lots that are smaller than the minimum size shown on the [Lot Size Map](#) in relation to the land concerned,
  - (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.

#### **17 Minimum subdivision lot size**

- (1) The objectives of this clause are as follows:
  - (a) to ensure that lot sizes are able to accommodate development that is suitable for its purpose and consistent with relevant development standards,
  - (b) to ensure that lot sizes allow buildings to be sited to protect natural features.
- (2) This clause applies to a subdivision of any land shown on the [Lot Size Map](#) that requires development consent and that is carried out after the commencement of this Part.

- (3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.
- (4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

#### **18 Exceptions to development standards—transitional Part 3A projects**

- (1) A development standard imposed by this or any other environmental planning instrument on development that is part of a transitional Part 3A project, 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.

#### **19 Exceptions to development standards—other development**

- (1) This clause applies to development, other than development that is part of a transitional Part 3A project.
- (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) Development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that:
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (4), and
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Director-General has been obtained.

(6) In deciding whether to grant concurrence, the Director-General must consider:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

(7) 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.

## 20 Arrangements for designated State public infrastructure

- (1) This clause applies to land in Zone R1 General Residential, Zone R2 Low Density Residential or Zone B4 Mixed Use 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) land required for regional open space,
  - (d) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

## 21 Public utility infrastructure

- (1) This clause applies to land in Zone R1 General Residential, Zone R2 Low Density Residential or Zone B4 Mixed Use within the Huntlee New Town site.

- (2) Development consent must not be granted for development on land to which this clause applies 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.
- (3) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.
- (4) In this clause, **public utility infrastructure** includes infrastructure for any of the following:
  - (a) the supply of water,
  - (b) the supply of electricity or gas,
  - (c) the disposal and management of sewage.

## **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 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*).

**24 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 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*, 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).

## **25 Development control plan**

- (1) Development consent must not be granted for development on land in Zone R1 General Residential, Zone R2 Low Density Residential or Zone B4 Mixed Use within the Huntlee New Town site unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.
- (2) The development control plan must provide for all of the following:
- (a) a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,
  - (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
  - (c) traffic, parking and key transport access points,
  - (d) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
  - (e) stormwater and water quality management controls, including appropriate on-site measures,
  - (f) amelioration of natural and environmental hazards, including bushfire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,
  - (g) detailed urban design controls for significant development sites, including setbacks, height controls, building materials and colours, identification of areas of high visibility and sites for landmark buildings,
  - (h) measures to accommodate and control appropriate neighbourhood commercial and retail uses,
  - (i) measures to encourage higher density living around transport, open space and service nodes,
  - (j) community and neighbourhood facilities, including suitably located public facilities and services and provision for appropriate traffic management facilities and parking,

- (k) infrastructure services and opportunities for shared corridors and water re-cycling,
  - (l) subdivision layout, including access for all forms of transport (including pedestrian access), lot size and mix, location of open space and the road network and finished contour levels of the site (including earthworks required to achieve the finished contours),
  - (m) provision for biodiversity, including retention of existing remnant vegetation, and existing conservation offset strategies.
- (3) Subclause (2) does not apply to any of the following development:
- (a) a subdivision of land if any of the lots proposed to be created is to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose,
  - (b) a subdivision of land in a zone in which the erection of structures is prohibited,
  - (c) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.
- (4) The Minister is authorised, for the purposes of section 74D (5) (b) of the Act, to act in the place of the consent authority in relation to a development control plan required to be prepared under this clause.

## **Part 28 Calderwood site**

### **Division 1 Preliminary**

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

This Part applies to the land identified in the [Land Application Map](#), referred to in this Part as the **Calderwood site**.

#### **2 Interpretation**

(1) In this Part:

**eco-tourism facility** means a building or place used for tourist and visitor accommodation, function centres or environmental facilities, that is located in a natural environment and is primarily used for activities involving education about, or the interpretation, cultural understanding or appreciation of, the natural environment.

**ground level (finished)** means, for any point on a site, the ground surface after completion of any earthworks (excluding an excavation for a basement, footing or the like) for which development consent or an approval under Part 3A of the Act has been granted.

**Height of Buildings Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Calderwood Height of Buildings Map](#).

**heritage item** means a building, work, relic, tree or place:

- (a) shown as a heritage item on the [Heritage Map](#), and
- (b) the location and nature of which is described in the Table to clause 27 (8).

**Heritage Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Calderwood Heritage Map](#).

**Land Application Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Calderwood Land Application Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Calderwood Land Zoning Map](#).

**Lot Size Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Calderwood Lot Size Map](#).

**manufactured home** means a self-contained dwelling that:

- (a) includes at least 1 kitchen, bathroom, bedroom and living area and that also includes toilet and laundry facilities, and
- (b) comprises 1 or more major sections that are each constructed, and assembled, away from the manufactured home estate and transported to the estate for installation on the estate, and
- (c) is not capable of being registered under the [Road Transport \(Vehicle Registration\) Act 1997](#),

and includes any associated structures that form part of the dwelling.

**manufactured home estate** means land on which manufactured homes are, or are to be, erected.

**place of Aboriginal heritage significance** means an area of land shown on the [Heritage Map](#) that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well

as initiation, ceremonial or story places or areas of more contemporary cultural significance.

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

**Note—**

The land concerned is partly in the local government area of Shellharbour and partly in the local government area of Wollongong.

**stormwater management system** means:

- (a) works for the collection, detention, distribution or discharge of stormwater (such as channels, aqueducts, pipes, drainage works, embankments, detention basins and pumping stations), and
- (b) stormwater quality control devices (such as waste entrapment facilities, artificial wetlands, sediment ponds and riparian management), and
- (c) stormwater reuse schemes.

**waterway or foreshore management activities** means:

- (a) riparian corridor and bank management, including erosion control, bank stabilisation, resnagging, weed management, revegetation and the creation of foreshore access ways, or
- (b) instream management or dredging to rehabilitate aquatic habitat or to maintain or restore environmental flows or tidal flows for ecological purposes, or
- (c) coastal management and beach nourishment, including erosion control, dune or foreshore stabilisation works, headland management, weed management, revegetation activities and foreshore access ways.

- (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* (as in force immediately before the commencement of the *Standard Instrument (Local Environmental Plans) Amendment Order 2011*) unless it is otherwise defined in this Part.

### **3 Consent authority**

The consent authority for development on land within the Calderwood site, other than development to which Part 3A of the Act applies, is the relevant council.

### **4 (Repealed)**

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

The only environmental planning instruments that apply, according to their terms, to land

within the Calderwood site are:

- (a) this Policy, and
- (b) all other State Environmental Planning Policies, other than *State Environmental Planning Policy No 1—Development Standards*.

## **Division 2 Provisions relating to development in Calderwood site**

### **6 Application of Division**

- (1) This Division applies to development on land within the Calderwood site, except as provided by subclause (2).
- (2) Clauses 8-15, 17-21 and 23-33 do not apply to development to the extent that it is a transitional Part 3A project.

### **7 Land use zones**

For the purposes of this Part, land within the Calderwood site is in one of the follow zones if the land is shown on the [Land Zoning Map](#) as being within that zone:

- (a) Zone RU2 Rural Landscape,
- (b) Zone R1 General Residential,
- (c) Zone R5 Large Lot Residential
- (d) Zone B4 Mixed Use,
- (e) Zone RE1 Public Recreation,
- (f) Zone E2 Environmental Conservation,
- (g) Zone E3 Environmental Management.

### **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 RU2 Rural Landscape**

- (1) The objectives of Zone RU2 Rural Landscape are as follows:
  - (a) to encourage sustainable primary industry production by maintaining and enhancing the natural resource base,
  - (b) to maintain the rural landscape character of the land,
  - (c) to provide for a range of compatible uses, including extensive agriculture,

(d) to retain, manage or restore native vegetation.

(2) Development for any of the following purposes is permitted without development consent on land within Zone RU2 Rural Landscape:

extensive agriculture; home occupations; roadside stalls.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone RU2 Rural Landscape:

agriculture (other than extensive agriculture); bed and breakfast accommodation; child care centres; community facilities; dwelling houses; environmental facilities; environmental protection works; farm buildings; farm stay accommodation; forestry; home-based child care; home businesses; home industries; recreation areas; recreation facilities (outdoor); roads; secondary dwellings; signage; veterinary hospitals.

(4) Development for any of the following purposes is prohibited on land within Zone RU2 Rural Landscape:

any development not specified in subclause (2) or (3).

## **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.

(2) Development for any of the following purposes is permitted without development consent on land within Zone R1 General Residential:

home occupations.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone R1 General Residential:

attached dwellings; boarding houses; child care centres; community facilities; dwelling houses; group homes; hostels; multi dwelling housing; neighbourhood shops; places of public worship; residential flat buildings; roads; semi-detached dwellings; shop top housing; any other development not specified in subclause (2) or (4).

(4) Development for any of the following purposes is prohibited on land within Zone R1 General Residential:

agriculture; air transport facilities; amusement centres; biosolid waste applications; boat repair facilities; boat sheds; bulky goods premises; business premises; caravan parks; charter and tourism boating facilities; correctional centres; crematoria; depots; eco-tourism facilities; entertainment facilities; extractive industries; farm buildings; farm stay accommodation; forestry; freight transport facilities; function centres; highway service centres; home occupations (sex services); industrial retail outlets; industries; marinas; office premises; passenger transport facilities; port facilities; public administration buildings; recreation facilities (major); registered clubs; research stations; restricted premises; restriction facilities; retail premises; rural industries; rural supplies; rural workers' dwellings; service stations; sex services premises; storage premises; timber and building supplies; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; vehicle sales or hire premises; waste or resource management facilities; water recreation structures; wholesale supplies.

## **11 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, and minimising impacts on, 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 land uses within adjoining zones.

(2) Development for any of the following purposes is permitted without development consent on land within Zone R5 Large Lot Residential:

home occupations.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone R5 Large Lot Residential:

animal boarding or training establishments; bed and breakfast accommodation; business identification signs; child care centres; community facilities; dwelling houses; environmental protection works; exhibition homes; farm buildings; home-based child care; home businesses; home industries; recreation areas; roads; roadside stalls; secondary dwellings.

(4) Development for any of the following purposes is prohibited on land within Zone R5 Large Lot Residential:



any development not specified in subclause (2) or (3).

## **12 Zone B4 Mixed Use**

(1) The objectives of Zone B4 Mixed Use are as follows:

- (a) to provide a mixture of compatible uses,
- (b) to integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

(2) Development for any of the following purposes is permitted without development consent on land within Zone B4 Mixed Use:

home occupations.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone B4 Mixed Use:

boarding houses; business premises; child care centres; community facilities; educational establishments; entertainment facilities; function centres; hotel or motel accommodation; information and education facilities; office premises; passenger transport facilities; recreation facilities (indoor); registered clubs; retail premises; roads; shop top housing; any other development not specified in subclause (2) or (4).

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

agriculture; air transport facilities; biosolid waste applications; boat repair facilities; boat sheds; caravan parks; charter and tourism boating facilities; correctional centres; crematoria; depots; extractive industries; farm buildings; farm stay accommodation; forestry; freight transport facilities; hazardous storage establishments; hazardous industries; heavy industries; home occupations (sex services); liquid fuel depots; offensive storage establishments; restricted premises; restriction facilities; rural industries; sex services premises; transport depots; truck depots; water recreation structures.

## **13 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, 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:

nil.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone RE1 Public Recreation:

building identification signs; business identification signs; child care centres; community facilities; drainage; environmental facilities; environmental protection works; flood mitigation works; information and education facilities; kiosks; markets; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); roads; sewerage reticulation facilities; stormwater management systems; water reticulation systems; waterbodies; waterway or foreshore management activities.

- (4) Development for any of the following purposes is prohibited on land within Zone RE1 Public Recreation:

any development not specified in subclause (2) or (3).

#### **14 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:

nil.

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

drainage; environmental protection works; environmental facilities; flood mitigation works; information and education facilities; kiosks; recreation areas; roads; sewerage systems; stormwater management systems; water reticulation systems; water supply systems; waterbodies; waterway or foreshore management activities.

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

### **15 Zone E3 Environmental Management**

(1) The objectives of Zone E3 Environmental Management are as follows:

- (a) to protect, manage and restore areas of 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:

home occupations.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone E3 Environmental Management:

bed and breakfast accommodation; building identification signs; business identification signs; community facilities; drainage; dwelling houses; eco-tourism facilities; environmental facilities; environmental protection works; flood mitigation works; home-based child care; home businesses; home industries; information and education facilities; kiosks; recreation areas; roads; sewerage systems; stormwater management systems; water reticulation systems; waterbodies; waterway or foreshore management activities.

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

### **16 Prohibited development**

Development on land within the Calderwood site that is part of a transitional Part 3A project is prohibited if it would be prohibited were it development to which Part 4 of the Act applies.

### **17 Subdivision—consent requirements**

(1) Land within the Calderwood 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.

### **18 Minimum subdivision lot size**

- (1) The objectives of this clause are as follows:
  - (a) to create lots that are compatible with the desired future character of the locality and to minimise likely adverse impacts on the amenity of adjoining developments,
  - (b) to ensure that lot sizes are able to accommodate development that is suitable for its purpose and consistent with relevant development controls,
  - (c) to ensure that lot sizes have a practical and efficient layout for the intended use,
  - (d) to ensure that lot sizes allow buildings to be sited to protect natural or cultural features and retain special features such as trees and views.
- (2) This clause applies to a subdivision of any land in the Calderwood 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 the minimum lot size shown on the [Lot Size Map](#) in relation to that land.
- (4) Despite any other provision of this Part, development consent must not be granted for the subdivision of any land in the Calderwood site if the subdivision would create a lot smaller than the minimum lot size permitted for the land immediately before the commencement of this clause.
- (5) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

## **19 Subdivision certificates**

A subdivision certificate may be issued by an accredited certifier for a subdivision of land within the Calderwood site in accordance with section 109D (1) (d) (iv) of the Act.

## **20 Height restrictions**

The height of a building on any land within the Calderwood site is not to exceed the maximum height shown for the land on the [Height of Buildings Map](#), measured from ground level (finished).

## **21 Kiosks**

Despite any other provision of this Part, if development consent may be granted to development for the purposes of a kiosk, consent must only be granted if the floor area of the kiosk does not exceed 10m<sup>2</sup>.

## **22 Exceptions to development standards—transitional Part 3A projects**

- (1) A development standard imposed by this or any other environmental planning instrument on development that is part of a transitional Part 3A project, and is on land within the Calderwood 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 the 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.

## **23 Exceptions to development standards—other development**

- (1) This clause applies to development on land within the Calderwood site, other than development that is part of a transitional Part 3A project.
- (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 on

particular circumstances.

- (3) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (4) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (5) Development consent must not be granted for development that contravenes a development standard unless:
  - (a) the consent authority is satisfied that:
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (4), and
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - (b) the concurrence of the Director-General has been obtained.
- (6) In deciding whether to grant concurrence, the Director-General must consider:
  - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (7) Development consent must not be granted under this clause for a subdivision of land in Zone E2 Environmental Conservation.
- (8) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be

addressed in the applicant's written request referred to in subclause (4).

- (9) This clause does not allow development consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
  - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated.

## 24 Conversion of fire alarms

- (1) This clause applies to a fire alarm system that can be monitored by New South Wales Fire Brigades or by a private service provider.
- (2) The following development may be carried out, but only with consent:
- (a) converting a fire alarm system from connection with the alarm monitoring system of New South Wales Fire Brigades to connection with the alarm monitoring system of a private service provider,
  - (b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,
  - (c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.
- (3) Development to which subclause (2) applies is complying development if it consists only of:
- (a) internal alterations to a building, or
  - (b) internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm × 100mm × 100mm.
- (4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.
- (5) In this clause:
- private service provider** means a person or body that has entered into an agreement that is in force with New South Wales Fire Brigades to monitor fire alarm

systems.

## 25 Bush fire hazard reduction

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without consent.

### Note—

The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

## 26 Flood planning

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

- (a) to minimise the flood risk to life and property associated with the use of land,
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,
- (c) to avoid significant adverse impacts on flood behaviour and the environment.

(2) This clause applies to land at or below the flood planning level.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) is compatible with the flood hazard of the land, and
- (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
- (c) incorporates appropriate measures to manage risk to life from flood, and
- (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction or riparian vegetation or a reduction in the stability of river banks or watercourses, and
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

(4) A word or expression used in this clause has the same meaning as it has in the NSW Government's *Floodplain Development Manual* published in 2005, unless it is otherwise defined in this clause.

(5) In this clause:

**flood planning level** means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5m freeboard.



## 27 Heritage conservation

(1) **Objectives** The objectives of this clause are:

- (a) to conserve the environmental heritage of the Calderwood site, and
- (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and
- (c) to conserve places of Aboriginal heritage significance.

(2) **Requirement for consent** Development consent is required for any of the following:

- (a) demolishing or moving a heritage item,
- (b) altering a heritage item, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
- (c) altering a heritage item that is a building by making structural changes to its interior,
- (d) disturbing or excavating a place of Aboriginal heritage significance,
- (e) erecting a building on land on which a heritage item is located,
- (f) subdividing land on which a heritage item is located.

(3) **When consent not required** However, consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
  - (i) is of a minor nature, or is for the maintenance of the heritage item or archaeological site, and
  - (ii) would not adversely affect the significance of the heritage item or archaeological site, or
- (b) the development is limited to the removal of a tree or other vegetation that the relevant council is satisfied is a risk to human life or property, or
- (c) the development is exempt development.

(4) **Effect on heritage significance** The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item concerned.

(5) **Heritage impact assessment** The consent authority may, before granting consent to any development on land:

(a) on which a heritage item is situated, or

(b) within the vicinity of land on which a heritage item is situated,

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 concerned.

(6) **Places of Aboriginal heritage significance** The consent authority must, before granting consent under this clause to the carrying out of development in a place of Aboriginal heritage significance:

(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place, and

(b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.

(7) **Conservation incentives** The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this Part, if the consent authority is satisfied that:

(a) the conservation of the heritage item is facilitated by the granting of consent, and

(b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and

(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and

(d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and

(e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

(8) For the purposes of paragraph (b) of the definition of **heritage item** in clause 2 (1), the location and nature of a heritage item is specified in the following Table:

**Table—heritage items**

<b>Item name</b>	<b>Address</b>	<b>Property description</b>	<b>Item no</b>
Marshall Mount Methodist Cemetery	Calderwood Road, Calderwood	Lot 1, DP 195342	2

Marshall Mount                      Marshall Mount Road,  
Homestead and Barn              Calderwood                      Part Lot 2, DP 2534              1

## 28 Public utility infrastructure

- (1) Development consent must not be granted for development on land within the Calderwood site unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.
- (3) In this clause, **public utility infrastructure** includes infrastructure for any of the following:
  - (a) the supply of water,
  - (b) the supply of electricity or gas,
  - (c) the disposal and management of sewage.

## 29 Development near zone boundaries

- (1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.
- (2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 50m.
- (3) This clause does not apply to:
  - (a) land in Zone RE1 Public Recreation, Zone E2 Environmental Conservation or Zone E3 Environmental Management, or
  - (b) land proposed to be developed for the purpose of sex services or restricted premises.
- (4) Despite the provisions of this Plan relating to the purposes for which development may be carried out, consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:
  - (a) the development is not inconsistent with the objectives for development in both zones, and

- (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.

### **30 Arrangements for designated State public infrastructure**

- (1) This clause applies to all land at the Calderwood 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 (2) 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 utility undertakings, educational facilities, or any other public purpose, or
  - (d) a subdivision for the purpose only of rectifying an encroachment on and 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 an financial or in-kind contribution by the State) of the following kinds:
  - (a) State and regional roads,
  - (b) land required for social infrastructure and facilities (such as land for schools, hospitals, emergency services and justice purposes).

### **31 Infrastructure development and use of existing buildings of the Crown**

- (1) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without

consent or that is exempt development under the *State Environmental Planning Policy (Infrastructure) 2007*.

- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

### **32 Temporary use of land**

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.
- (2) Despite any other provision of this Part, development consent may be granted for development on land within the Calderwood site in any zone for a temporary purpose for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.
- (3) Development consent must not be granted unless the consent authority is satisfied that:
  - (a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Part and any other applicable environmental planning instrument, and
  - (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
  - (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
  - (d) at the end of the temporary use period the site will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.
- (4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or housing estate may exceed 52 days (whether or not consecutive days) in any period of 12 months.
- (5) Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).

### **33 Interim land use**

- (1) Despite any other provision of this Part, development consent may be granted for development on land to which this Part applies for the following purposes:
  - (a) animal boarding or training establishments,
  - (b) extensive agriculture,

- (c) cellar door premises,
  - (d) farm buildings,
  - (e) farm forestry,
  - (f) farm stay accommodation,
  - (g) rural worker's dwellings,
- for a maximum period of 10 years.

- (2) Development consent must not be granted unless the consent authority is satisfied that:
- (a) the use will not prejudice the subsequent carrying out of development on the land in accordance with this Part or any other applicable environmental planning instrument, and
  - (b) the use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and
  - (c) the use and location of an structures will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land.

## **Part 29 Vincentia Coastal Village 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 ***Vincentia Coastal Village site***.

#### **2 Interpretation**

- (1) In this Part:

***Additional Permitted Uses Map*** means the [State Environmental Planning Policy \(Major Development\) 2005 Vincentia Coastal Village Additional Permitted Uses 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.

***Height of Buildings Map*** means the [State Environmental Planning Policy \(Major Development\) 2005 Vincentia Coastal Village Height of Buildings Map](#).

**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 \(Major Development\) 2005 Vincentia Coastal Village Land Application Map](#).

**Land Reservation Acquisition Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Vincentia Coastal Village Land Reservation Acquisition Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Vincentia Coastal Village 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](#) (as in force immediately before the commencement of the [Standard Instrument \(Local Environmental Plans\) Amendment Order 2011](#)) 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 transitional Part 3A project, is the Council.

### **4 (Repealed)**

### **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**

### **6 (Repealed)**

## **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 transitional Part 3A project.

### **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 identified 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—Vincentia 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—Vincentia 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 [Height of Buildings 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 37,000 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).

Type of land shown on Map	Authority of the State
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 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 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 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 30 UTS Ku-ring-gai Campus 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 **UTS Ku-ring-gai Campus site**.

#### 2 Interpretation

(1) In this Part:

**Council** means the Ku-ring-gai Council.

**Height of Buildings Map** means the [State Environmental Planning Policy \(Major Development\) 2005 UTS Ku-ring-gai Campus Height of Buildings Map](#).

**Heritage Map** means the [State Environmental Planning Policy \(Major Development\) 2005 UTS Ku-ring-gai Campus Heritage Map](#).

**Land Application Map** means the [State Environmental Planning Policy \(Major Development\) 2005 UTS Ku-ring-gai Campus Land Application Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) 2005 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](#) (as in force immediately before the commencement of the [Standard Instrument \(Local Environmental Plans\) Amendment Order 2011](#)) 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 transitional Part 3A project, is the Council.

#### 4 (Repealed)

#### 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 transitional Part 3A project.

### **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; educational facilities; group homes; hostels; multi dwelling housing; neighbourhood shops; places of public worship; recreational facilities (indoor); 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:

community facilities; 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).

#### 13A Subdivision—consent requirements

Land within the UTS Ku-ring-gai Campus site may be subdivided, but only with development consent.

**Notes—**

- 1 If a subdivision is specified as **exempt development** in an applicable environmental planning instrument, such as *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the Act enables it to be carried out without development consent.
- 2 Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* provides that the strata subdivision of a building in certain circumstances is **complying development**.

#### 13B Demolition requires development consent

The demolition of a building or work on land within the UTS Ku-ring-gai Campus site may be carried out only with development consent.

**Note—**

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

### 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.

### **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 [Height of Buildings 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, including the gymnasium and footbridge, 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.

## 22 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 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 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 31 Edmondson Park South site

## Division 1 Preliminary

### 1 Land to which Part applies

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

### 2 Interpretation

- (1) In this Part:

**Flood Planning Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Edmondson Park South Flood Planning Map](#).

**Floor Space Ratio Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Edmondson Park South Floor Space Ratio Map](#).

**Height of Buildings Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Edmondson Park South Height of Buildings Map](#).

**heritage conservation area** means an area of land shown on the [Heritage Map](#) as a

heritage conservation area or as a place of Aboriginal heritage significance.

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

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

**Heritage Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Edmondson Park South Heritage Map](#).

**Land Application Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Edmondson Park South Land Application Map](#).

**Land Reservation Acquisition Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Edmondson Park South Land Reservation Acquisition Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Edmondson Park South Land Zoning Map](#).

**Lot Size Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Edmondson Park South Lot Size Map](#).

**Native Vegetation Protection Map** means the [State Environmental Planning Policy \(Major Development\) 2005 Edmondson Park South Native Vegetation Protection Map](#).

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

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

### 3 Consent authority

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

### 4 Maps

- (1) A reference in this Part to a named map adopted by this Part is a reference to a map by that name:
  - (a) approved by the Minister when the map is adopted, and
  - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.



- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Part to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (4) For the purposes of this Part, a map may be in, and may be kept and made available in, electronic or paper form, or both.

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

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

## **Division 2 Provisions relating to development in Edmondson Park South site**

### **6 Application of Division**

- (1) This Division applies to development on land within the Edmondson Park South site, except as provided by subclause (2).
- (2) Clauses 8–14, 16, 21–24, 26, 28, 31–34 and 36 do not apply to development to the extent that it is a transitional Part 3A project.

### **7 Land use zones**

For the purposes of this Policy, land within the Edmondson Park South site is in one of the following zones if the land is shown on the [Land Zoning Map](#) as being within that zone:

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

(f) Zone E4 Environmental Living.

## **8 Objectives of land use zones to be taken into account**

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

## **9 Zone R1 General Residential**

(1) The objectives of Zone R1 General Residential are as follows:

- (a) to provide for the housing needs of the community,
- (b) to provide for a variety of housing types and densities,
- (c) to enable other land uses that provide facilities or services to meet the day to day needs of residents.

(2) Development for any of the following purposes is permitted without development consent on land within Zone R1 General Residential:

environmental protection works; home occupations.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone R1 General Residential:

attached dwellings; boarding houses; child care centres; community facilities; dwelling houses; earthworks; food and drink premises; group homes; hostels; kiosks; markets; multi dwelling housing; neighbourhood shops; places of public worship; residential flat buildings; roads; semi-detached dwellings; shop top housing; signage; any other development not specified in subclause (2) or (4)

(4) Except as otherwise provided by this Part, development for any of the following purposes is prohibited on land within Zone R1 General Residential:

agriculture; air transport facilities; amusement centres; backpackers' accommodation; boat repair facilities; boat sheds; business premises; bulky goods premises; caravan parks; charter and tourism boat facilities; correctional centres; crematoria; depots; entertainment facilities; extractive industries; farm stay accommodation; forestry; freight transport facilities; function centres; highway service centres; home occupations (sex services); hotel or motel accommodation; industrial retail outlets; industries; landscape and gardens supplies; marinas; office premises; passenger transport facilities; port facilities; public administration buildings; recreation facilities (major); registered clubs; research stations; restricted premises; restriction facilities; retail premises; rural industries; rural supplies; service stations; sex service premises; storage premises; timber and building supplies; transport depots; truck depots; vehicle body repair workshops; vehicle repair stations; vehicle sales or hire premises; warehouse and distribution

centres; waste or resource management facilities; wholesale supplies.

#### **10 Zone B4 Mixed Use**

(1) The objectives of Zone B4 Mixed Use are as follows:

- (a) to provide a mixture of compatible land uses,
- (b) to integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

(2) Development for any of the following purposes is permitted without development consent on land within Zone B4 Mixed Use:

environmental protection works.

(3) Development for any of the following purposes is permitted only with development consent on land within Zone B4 Mixed Use:

boarding houses; business premises; child care centres; community facilities; earthworks; educational establishments; entertainment facilities; function centres; hotel or motel accommodation; information and education facilities; office premises; passenger transport facilities; recreation facilities (indoor); registered clubs; residential flat buildings; retail premises; roads; seniors housing; shop top housing; any other development not specified in subclause (2) or (4).

(4) Except as otherwise provided by this Part, development for any of the following purposes is prohibited on land within Zone B4 Mixed Use:

agriculture; air transport facilities; caravan parks; cemeteries; correctional centres; crematoria; depots; extractive industries; forestry; freight transport facilities; home occupations (sex services); industrial retail outlets; industries; residential accommodation; restricted premises; restriction facilities; rural industries; sex service premises; storage premises; transport depots; truck depots; vehicle body repair shops; waste or resource management facilities.

#### **11 Zone SP2 Infrastructure**

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

- (a) to provide for infrastructure and related uses,
- (b) to prevent development that is not compatible with or that may detract from the provision of infrastructure,
- (c) to reserve land for the provision of infrastructure.

(2) Development for any of the following purposes is permitted without development

consent on land within Zone SP2 Infrastructure:

nil.

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

earthworks; the purpose shown on the [Land Zoning Map](#), including any development that is ordinarily incidental or ancillary to development for that purpose; roads.

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

## **12 Zone RE1 Public Recreation**

- (1) The objectives of Zone RE1 Public Recreation are as follows:

- (a) to enable land to be used for public open space or recreational purposes,
- (b) to provide a range of recreational settings and activities and compatible land uses,
- (c) to protect and enhance the natural environment for recreational purposes,
- (d) to provide a sufficient and equitable distribution of public open space to meet the needs of residents.

- (2) Development for any of the following purposes is permitted without development consent on land within Zone RE1 Public Recreation:

environmental protection works.

- (3) Development for any of the following purposes is permitted only with development consent on land within Zone RE1 Public Recreation:

building identification signs; business identification signs; child care centres; community facilities; earthworks; flood mitigation works; information and education facilities; kiosks; markets; recreation areas; recreation facilities (indoor); recreation facilities (outdoor); restaurants; roads.

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

## **13 Zone E1 National Parks and Nature Reserves**

- (1) The objectives of Zone E1 National Parks and Nature Reserves are as follows:

- (a) to enable the management and appropriate use of land that is reserved under the [National Parks and Wildlife Act 1974](#) or that is acquired under Part 11 of that Act,

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

#### **14 Zone E4 Environmental Living**

- (1) The objectives of Zone E4 Environmental Living are as follows:
- (a) to provide for low-impact residential development in areas with special ecological, scientific, cultural or aesthetic values,
  - (b) to ensure that residential development does not have an adverse effect on those values.
- (2) Development for any of the following purposes is permitted without development consent on land within Zone E4 Environmental Living:
- home occupations.
- (3) Development for any of the following purposes is permitted only with development consent on land within Zone E4 Environmental Living:
- bed and breakfast accommodation; dual occupancies; dwelling houses; earthworks; environmental facilities; environmental protection works; flood mitigation works; group homes; health consulting rooms; home-based child care; horticulture; recreation areas; recreation facilities (outdoor); roads; secondary dwellings; signage; swimming pools; water recreation structures; water recycling facilities; waterbodies (artificial).
- (4) Except as otherwise provided by this Part, development for any of the following purposes is prohibited on land within Zone E4 Environmental Living:
- industries; service stations; warehouse or distribution centres; any other development not specified in subclause (2) or (3).

## **15 Prohibited development**

Development on land within the Edmondson Park South site that is part of a transitional Part 3A project is prohibited if it would be prohibited were it development to which Part 4 of the Act applies.

## **16 Subdivision—consent requirements**

- (1) Land within the Edmondson Park South site may be subdivided, but only with development consent.
- (2) However, development consent is not required for a subdivision for the purpose only of any one or more of the following:
  - (a) widening a public road,
  - (b) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
  - (c) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
  - (d) rectifying an encroachment on a lot,
  - (e) creating a public reserve,
  - (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

## **17 Minimum subdivision lot size**

- (1) The objectives of this clause are as follows:
  - (a) to establish minimum lot sizes for residential development,
  - (b) to ensure that residential development has adequate usable areas for buildings and open space,
  - (c) to facilitate and encourage the provision of a range of dwelling types.
- (2) This clause applies to a subdivision of any land shown on the [Lot Size Map](#) that requires development consent and that is carried out after the commencement of this Part.
- (3) The size of any lot resulting from a subdivision of land to which this clause applies must not be less than the minimum size shown on the [Lot Size Map](#) in relation to that land.
- (4) Despite subclause (3) and the [Lot Size Map](#):

- (a) the size of any lot resulting from a subdivision of land for dwelling houses must not be less than 250m<sup>2</sup>, and
  - (b) the size of any lot resulting from a subdivision of land for semi-detached dwellings must not be less than 250m<sup>2</sup>, and
  - (c) the size of any lot resulting from a subdivision of land for dual occupancies must not be less than 500m<sup>2</sup>, and
  - (d) the size of any lot resulting from a subdivision of land for secondary dwellings must not be less than 250m<sup>2</sup>, and
  - (e) the size of any lot resulting from a subdivision of land for attached dwellings must not be less than 125m<sup>2</sup>, and
  - (f) the size of any lot resulting from a subdivision of land for multi dwelling housing must not be less than 1,500m<sup>2</sup>, and
  - (g) the size of any lot resulting from a subdivision of land for residential flat dwellings must not be less than 1,500m<sup>2</sup>.
- (5) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.

## **18 Height of buildings**

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

## **19 Floor space ratio**

- (1) The objectives of this clause are as follows:
- (a) to establish standards for the maximum development density and intensity of land use,
  - (b) to control building density and bulk in relation to site area,
  - (c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain.
- (2) The maximum floor space ratio of a building on any land within the Edmondson Park South site is not to exceed the floor space ratio shown for the land on the [Floor Space Ratio Map](#).

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

- (1) **Objectives** The objectives of this clause are as follows:
- (a) to define ***floor space ratio***,

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

(2) **Definition of “floor space ratio”** The **floor space ratio** of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.

(3) **Site area** In determining the site area of proposed development for the purpose of applying a floor space ratio, the **site area** is taken to be:

- (a) if the proposed development is to be carried out on only one lot, the area of that lot, or
- (b) if the proposed development is to be carried out on 2 or more lots, the area of any lot on which the development is proposed to be carried out that has at least one common boundary with another lot on which the development is being carried out.

In addition, subclauses (4)–(7) apply to the calculation of site area for the purposes of applying a floor space ratio to proposed development.

(4) **Exclusions from site area** The following land must be excluded from the site area:

- (a) land on which the proposed development is prohibited, whether under this Plan or any other law,
- (b) community land or a public place (except as provided by subclause (7)).

(5) **Strata subdivisions** The area of a lot that is wholly or partly on top of another or others in a strata subdivision is to be included in the calculation of the site area only to the extent that it does not overlap with another lot already included in the site area calculation.

(6) **Only significant development to be included** The site area for proposed development must not include a lot additional to a lot or lots on which the development is being carried out unless the proposed development includes significant development on that additional lot.

(7) **Certain public land to be separately considered** For the purpose of applying a floor space ratio to any proposed development on, above or below community land or a public place, the site area must only include an area that is on, above or below that community land or public place, and is occupied or physically affected by the



proposed development, and may not include any other area on which the proposed development is to be carried out.

- (8) **Existing buildings** The gross floor area of any existing or proposed buildings within the vertical projection (above or below ground) of the boundaries of a site is to be included in the calculation of the total floor space for the purposes of applying a floor space ratio, whether or not the proposed development relates to all of the buildings.
- (9) **Covenants to prevent “double dipping”** When consent is granted to development on a site comprised of 2 or more lots, a condition of the consent may require a covenant to be registered that prevents the creation of floor area on a lot (the restricted lot) if the consent authority is satisfied that an equivalent quantity of floor area will be created on another lot only because the site included the restricted lot.
- (10) **Covenants affect consolidated sites** If:
- (a) a covenant of the kind referred to in subclause (9) applies to any land (**affected land**), and
  - (b) proposed development relates to the affected land and other land that together comprise the site of the proposed development,
- the maximum amount of floor area allowed on the other land by the floor space ratio fixed for the site by this Part is reduced by the quantity of floor space area the covenant prevents being created on the affected land.
- (11) **Definition** In this clause, **public place** has the same meaning as it has in the [Local Government Act 1993](#).

## 21 Temporary use of land

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

- (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
  - (d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.
- (4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.
- (5) Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).

## 22 Interim land use for exhibition and sales office

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

***exhibition and sales office*** means a building or place, used for house and land sales, site offices, advisory services, car parking and other associated purposes.

## 23 Demolition requires consent

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

### **Note—**

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

## 24 Development near zone boundaries

- (1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.
- (2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is 25 metres from any zone boundary.
- (3) This clause does not apply to:
  - (a) land in Zone RE1 Public Recreation or Zone E1 National Parks and Nature Reserves, or
  - (b) land proposed to be developed for the purpose of sex services or restricted premises.
- (4) Despite the provisions of this Part relating to the purposes for which development may be carried out, consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:
  - (a) the development is not inconsistent with the objectives for development in both zones, and
  - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.
- (5) This clause does not prescribe a development standard that may be varied under this Part.

## 25 Bush fire hazard reduction

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

**Note—**

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

## 26 Flood planning

- (1) The objectives of this clause are as follows:
  - (a) to minimise the flood risk to life and property associated with the use of land,
  - (b) to allow development on land that is compatible with the land's flood hazard,

taking into account projected changes as a result of climate change,

(c) to avoid significant adverse impacts on flood behaviour and the environment.

(2) This clause applies to:

(a) land that is shown as “Flood planning area” on the [Flood Planning Map](#), and

(b) other land at or below the flood planning level.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

(a) is compatible with the flood hazard of the land, and

(b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and

(c) incorporates appropriate measures to manage risk to life from flood, and

(d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and

(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

(4) A word or expression used in this clause has the same meaning as it has in the NSW Government’s *Floodplain Development Manual* published in 2005, unless it is otherwise defined in this clause.

(5) In this clause:

**flood planning level** means the level of a 1:00 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.

## **27 Exceptions to development standards—transitional Part 3A projects**

(1) A development standard imposed by this or any other environmental planning instrument on development that is part of a transitional Part 3A project, and is on land within the Edmondson Park South site, does not apply to that development if the Director-General is satisfied, and issues a certificate to the effect, that:

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) there are sufficient environmental planning grounds to justify exempting the development from that development standard.

- (2) In deciding whether to issue a certificate, the Director-General must consider:
  - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Director-General.

## **28 Exceptions to development standards—other development**

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

development within the zone in which the development is proposed to be carried out, and

- (b) the concurrence of the Director-General has been obtained.
- (6) In deciding whether to grant concurrence, the Director-General must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (7) Development consent must not be granted under this clause for a subdivision of land in Zone E4 Environmental Living if:
- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
  - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- (8) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (4).
- (9) This clause does not allow development consent to be granted for development that would contravene any of the following:
- (a) a development standard for complying development,
  - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated.

## 29 Controls relating to miscellaneous permissible uses

- (1) **Bed and breakfast accommodation** If development for the purposes of bed and breakfast accommodation is permitted under this Part, the accommodation that is provided to guests must consist of no more than 4 bedrooms.
- (2) **Home businesses** If development for the purposes of a home business is permitted under this Part, the carrying on of the business must not involve the use of more than 50 square metres of floor area.
- (3) **Kiosks** If development for the purposes of a kiosk is permitted under this Part, the

gross floor area must not exceed 30 square metres.

- (4) **Neighbourhood shops** If development for the purposes of a neighbourhood shop is permitted under this Part, the retail floor area must not exceed 100 square metres.
- (5) **Secondary dwellings** If development for the purposes of a secondary dwelling is permitted under this Part, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:
  - (a) 60 square metres,
  - (b) 20% of the total floor area of both the self-contained dwelling and the principal dwelling.

### **30 Architectural roof features**

- (1) The objectives of this clause are as follows:
  - (a) to permit variations to maximum building height standards for roof features of visual interest,
  - (b) to ensure that roof features are decorative elements and that the majority of the roof is contained within the maximum building height standard.
- (2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 18 may be carried out, but only with consent.
- (3) Development consent must not be granted to any such development unless the consent authority is satisfied that:
  - (a) the architectural roof feature:
    - (i) comprises a decorative element on the uppermost portion of a building, and
    - (ii) is not an advertising structure, and
    - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
    - (iv) will cause minimal overshadowing, and
  - (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

### **31 Preservation of trees or vegetation**

- (1) The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation.

- (2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the relevant council.

**Note—**

A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.

- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:
- (a) development consent, or
  - (b) a permit granted by the relevant council.
- (4) The refusal by the relevant council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the relevant council to grant consent for the carrying out of the activity for which a permit was sought.
- (5) This clause does not apply to a tree or other vegetation that the relevant council is satisfied is dying or dead and is not required as the habitat of native fauna.
- (6) This clause does not apply to a tree or other vegetation that the relevant council is satisfied is a risk to human life or property.
- (7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:
- (a) that is or forms part of a heritage item, or
  - (b) that is within a heritage conservation area.

**Note—**

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

- (8) This clause does not apply to or in respect of:
- (a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003* or that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or
  - (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause, or



- (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or
- (d) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying and Spatial Information Act 2002*, or
- (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

### 32 Native vegetation areas

- (1) The objective of this clause is to protect and manage native vegetation areas.
- (2) This clause applies to land within a native vegetation area as shown on the [Native Vegetation Protection Map](#).
- (3) This clause does not apply to any vegetation declared to be noxious weeds under the *Noxious Weeds Act 1993*.
- (4) The consent authority must not grant development consent for development on land to which this clause applies unless the consent authority is satisfied that the proposed development will not result in the clearing of any native vegetation (within the meaning of the *Native Vegetation Act 2003*).

### 33 Heritage conservation

- (1) **Objectives** The objectives of this clause are:
  - (a) to conserve the environmental heritage of the Edmondson Park South site, and
  - (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and
  - (c) to conserve archaeological sites, and
  - (d) to conserve places of Aboriginal heritage significance.
- (2) **Requirement for consent** Development consent is required for any of the following:
  - (a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,
  - (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
  - (c) altering a heritage item that is a building by making structural changes to its interior,
  - (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to

result in a relic being discovered, exposed, moved, damaged or destroyed,

- (e) disturbing or excavating a heritage conservation area that is a place of Aboriginal heritage significance,
- (f) erecting a building on land on which a heritage item is located or that is within a heritage conservation area,
- (g) subdividing land on which a heritage item is located or that is within a heritage conservation area.

(3) **When consent not required** However, consent under this clause is not required if:

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

(4) **Effect on heritage significance** The consent authority must, before granting consent under this clause, consider the effect of the proposed development on the heritage significance of the heritage item or heritage conservation area concerned. This subclause applies regardless of whether a heritage impact statement is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) **Heritage impact assessment** The consent authority may, before granting consent to any development on land:

- (a) on which a heritage item is situated, or
- (b) within a heritage conservation area, or
- (c) within the vicinity of land referred to in paragraph (a) or (b),

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

- (6) **Heritage conservation management plans** The consent authority may require, after considering the significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.
- (7) **Archaeological sites** The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the [Heritage Act 1977](#) applies):
  - (a) notify the Heritage Council of its intention to grant consent, and
  - (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.
- (8) **Places of Aboriginal heritage significance** The consent authority must, before granting consent under this clause to the carrying out of development in a place of Aboriginal heritage significance:
  - (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place, and
  - (b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.
- (9) **Demolition of item of State significance** The consent authority must, before granting consent for the demolition of a heritage item identified on the [Heritage Map](#) as being of State significance (other than an item listed on the State Heritage Register or to which an interim heritage order under the [Heritage Act 1977](#) applies):
  - (a) notify the Heritage Council about the application, and
  - (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.
- (10) **Conservation incentives** The consent authority may grant consent to development for

any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this Part, if the consent authority is satisfied that:

- (a) the conservation of the heritage item is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

(11) For the purposes of the definition of heritage item in clause 2 (1), the location and nature of a heritage item is specified in the following table:

**Table—heritage items**

<b>Item description</b>	<b>Address</b>	<b>Property description</b>	<b>Significance</b>	<b>Item No</b>
Ingleburn Village site—three Riley-Newsum pre-fabricated cottages (moveable items)	Bass Road	Part Lot 1, DP 831152	Local	3
Ingleburn Military Heritage Precinct	Campbelltown Road	Part Lot 2, DP 831152	State	2
Mont St Quentin Oval, including entry gates	Campbelltown Road	Part Lot 2, 831550	State	1

### **34 Public utility infrastructure**

- (1) Development consent must not be granted for development on land within the Edmondson Park South site unless the consent authority is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.

- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.
- (3) In this clause, **public utility infrastructure** includes infrastructure for any of the following:
  - (a) the supply of water,
  - (b) the supply of electricity or gas,
  - (c) the disposal and management of sewage.

### **35 Infrastructure development and use of existing buildings of the Crown**

- (1) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development that is permitted to be carried out with or without consent or that is exempt development under the [State Environmental Planning Policy \(Infrastructure\) 2007](#).
- (2) This Part does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

### **36 Development control plan**

- (1) The objective of this clause is to ensure that development on land within the Edmondson Park South site occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.
- (2) Development consent must not be granted for development on land within the Edmondson Park South site unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.
- (3) The development control plan must provide for all of the following:
  - (a) a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing,
  - (b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,
  - (c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,
  - (d) a network of passive and active recreational areas,
  - (e) stormwater and water quality management controls,

- (f) amelioration of natural and environmental hazards, including bushfire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,
  - (g) detailed urban design controls for significant development sites,
  - (h) measures to encourage higher density living around transport, open space and service nodes,
  - (i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,
  - (j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.
- (4) Subclause (2) does not apply to any of the following development:
- (a) a subdivision for the purpose of a realignment of boundaries that does not create additional lots,
  - (b) a subdivision of land if any of the lots proposed to be created is to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose,
  - (c) a subdivision of land in a zone in which the erection of structures is prohibited,
  - (d) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.

### **37 Relevant acquisition authority**

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

**Note—**

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

- (2) The authority of the State that will be the relevant authority to acquire land, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to the land shown on the [Land Reservation Acquisition Map](#) (or, if an authority of the State is not specified in relation to land required to be so acquired, the authority designated or determined under those provisions).

<b>Type of land shown on Map</b>	<b>Authority of the State</b>
Zone RE1 Public Recreation and marked "Local Open Space"	Relevant council
Zone SP2 Infrastructure and marked "Local Road"	Relevant council
Zone SP2 Infrastructure and marked "Classified Road"	Roads and Traffic Authority
Zone SP2 Infrastructure and marked "Railway"	The corporation constituted under section 8 of the Act
Zone E1 National Parks and Nature Reserves and marked "National Park"	Minister administering the <i>National Parks and Wildlife Act 1974</i>

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

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

- (1) For the purpose of enabling development on land within the Edmondson Park South site to be carried out in accordance with this Part or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) This clause does not apply:
- (a) to a covenant imposed by the relevant council or that the relevant council requires to be imposed, or
  - (b) to any prescribed instrument within the meaning of section 183A of the *Crown Lands Act 1989*, or
  - (c) to any conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
  - (d) to any Trust agreement within the meaning of the *Nature Conservation Trust Act 2001*, or
  - (e) to any property vegetation plan within the meaning of the *Native Vegetation Act 2003*, or
  - (f) to any biobanking agreement within the meaning of Part 7A of the *Threatened Species Conservation Act 1995*, or
  - (g) to any planning agreement within the meaning of Division 6 of Part 4 of the Act.

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

**Note—**

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

## **Part 33 Southern Highlands Regional Shooting Complex 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 **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](#) (as in force immediately before the commencement of the [Standard Instrument \(Local Environmental Plans\) Amendment Order 2011](#)) 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 transitional Part 3A project, is the Council.

#### **4 (Repealed)**

#### **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 transitional Part 3A project.

#### **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; shooting ranges.

(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 on land within the Southern Highlands Regional Shooting Complex site that is part of a transitional Part 3A project is prohibited if it would be prohibited were it development to which Part 4 of the Act applies.

## **12 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 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 Part 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—transitional Part 3A projects**

- (1) A development standard imposed by this or any other environmental planning instrument on development that is part of a transitional Part 3A project, 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 transitional Part 3A project.
- (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.

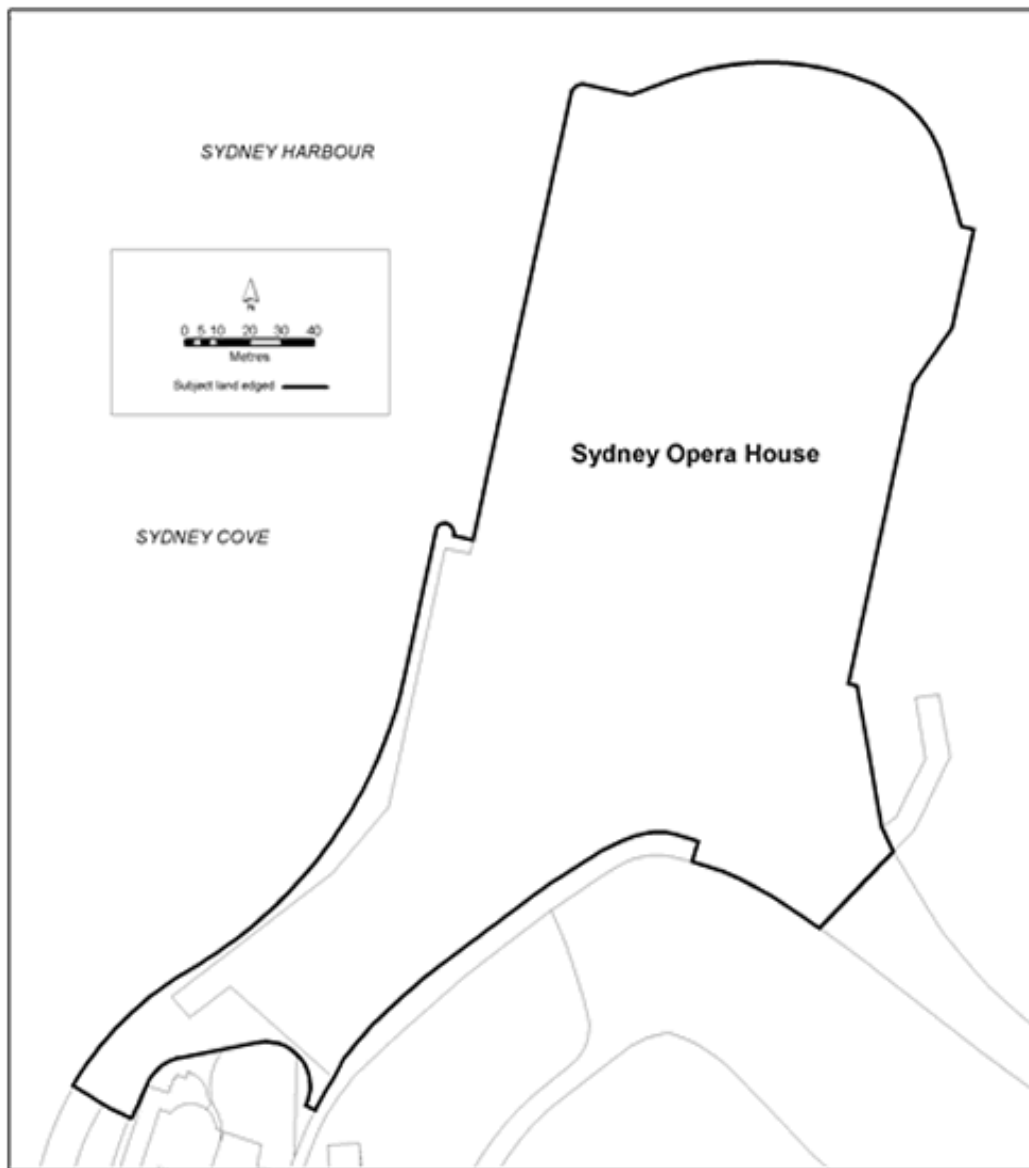
**Note—**

The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

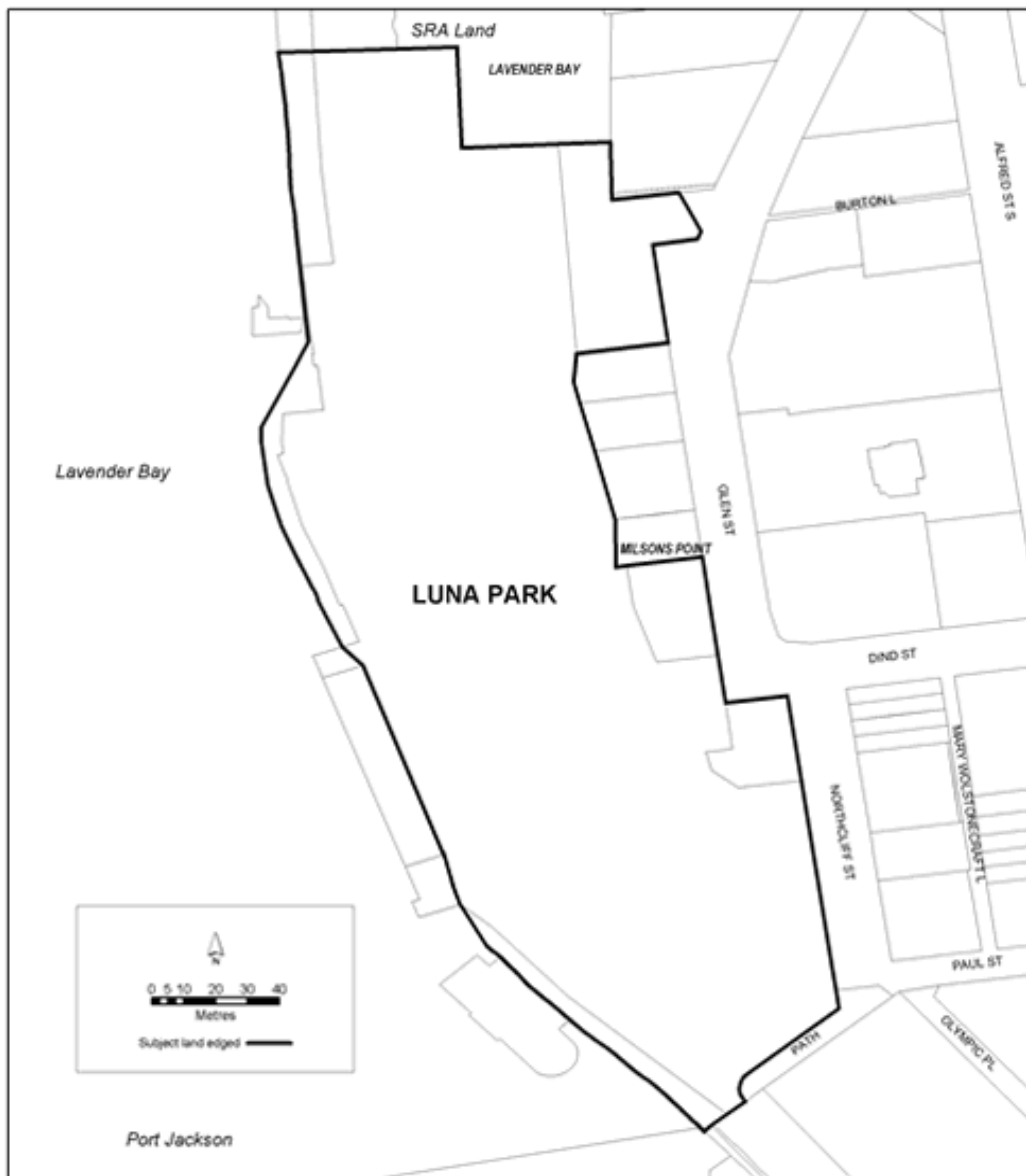
#### **17 Exempt and complying development**

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.

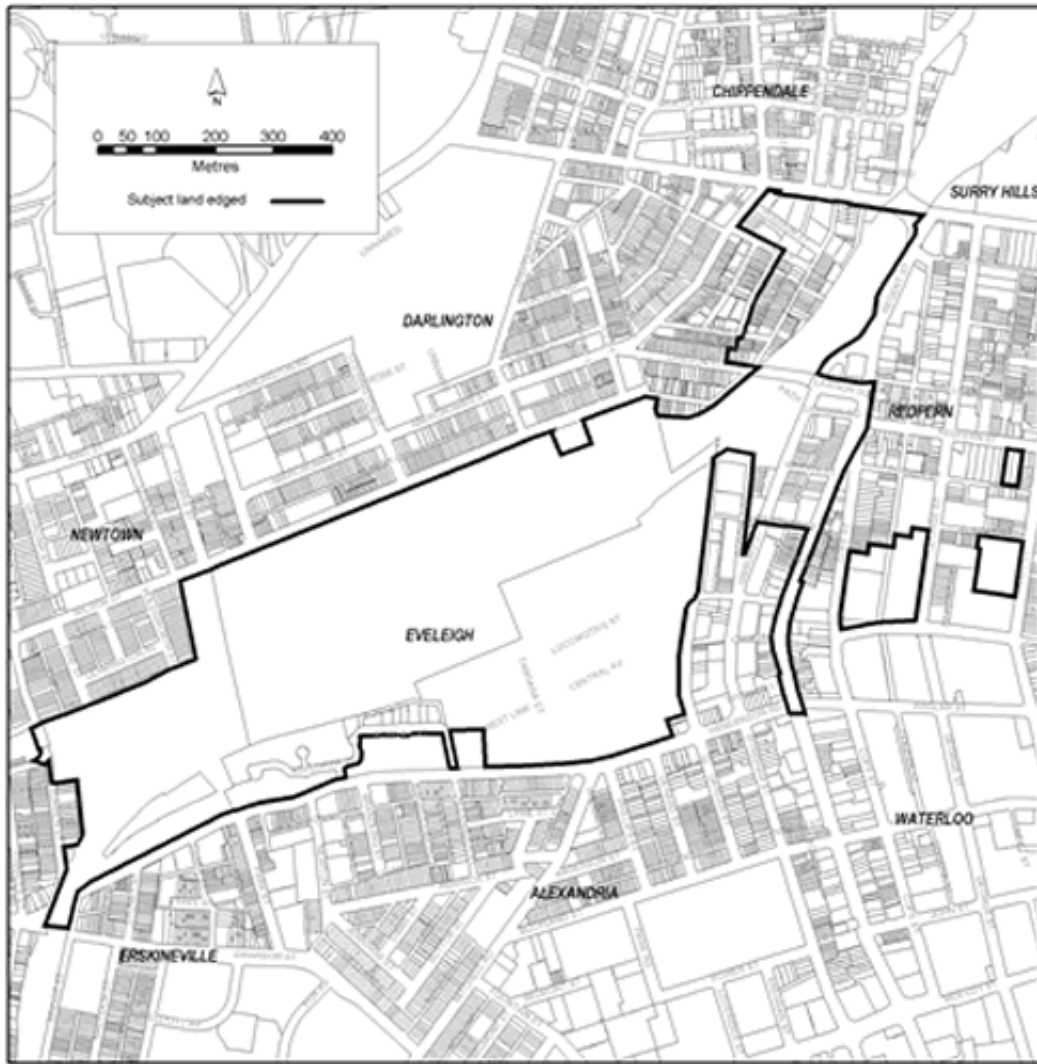
#### **Map 1—Schedule 3—Sydney Opera House**



**Map 2—Schedule 3—Luna Park**



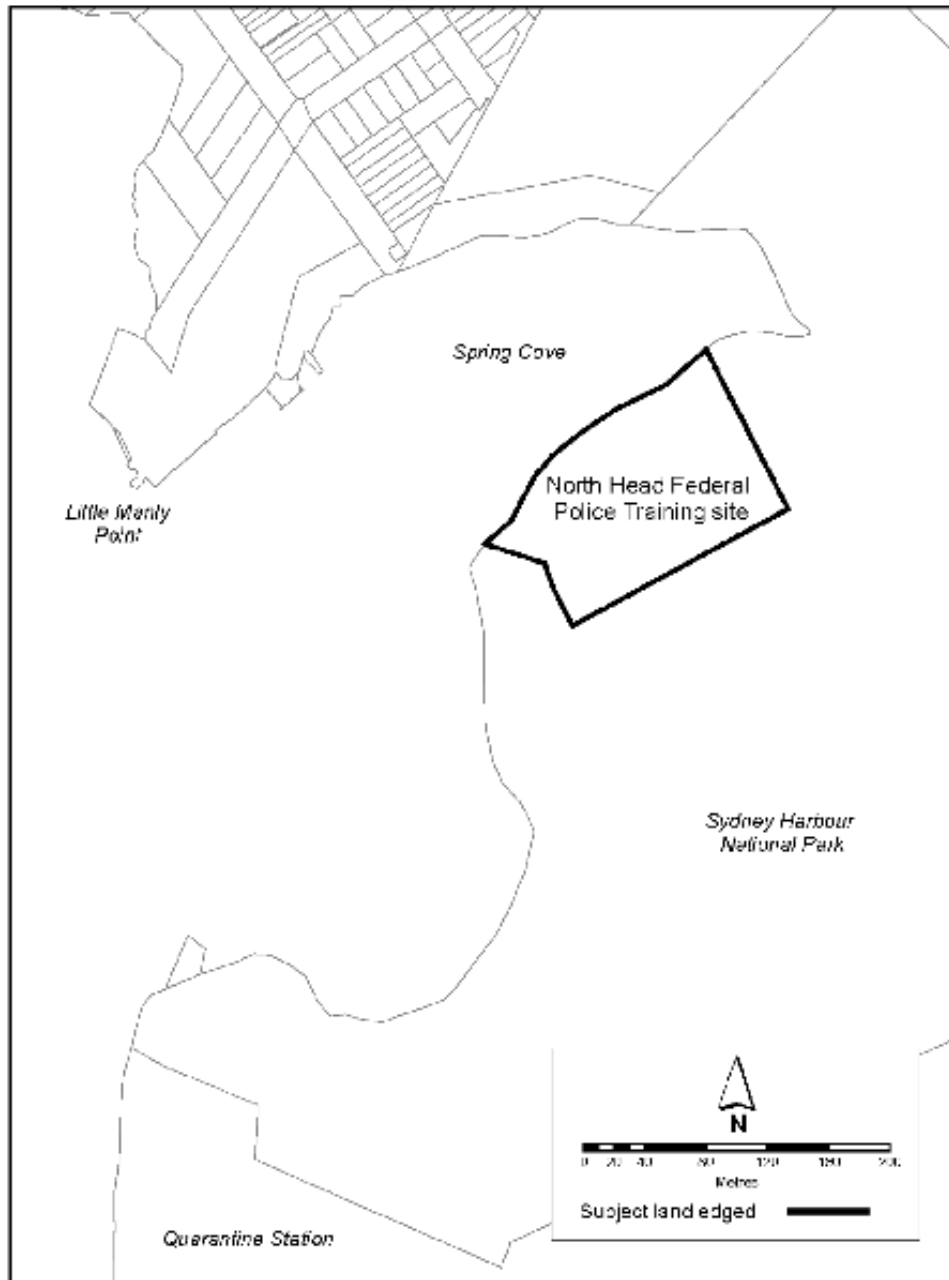
**Map 3—Schedule 3—Redfern-Waterloo Authority Sites**



**Maps 4, 5 (Repealed)**

**Map 6—Schedule 3—North Head Federal Police Training site**





**Map 7—Schedule 3—Huntingwood West Precinct**



**Maps 8-10 (Repealed)**

**Schedules 4, 5 (Repealed)**

**Schedule 6 Minister consent authority for Part 4 development**

(Clause 9A)

**1 (Repealed)**

**2 Redfern-Waterloo Authority Sites**

Development (with a capital investment value of not more than \$10 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 site**

Development within the Sydney Olympic Park site, as shown on the [State Environmental Planning Policy \(Major Development\) Amendment \(Sydney Olympic Park\) 2009 Land Application Map](#) as referred to in Schedule 3 to this Policy, except development that is a transitional Part 3A project.

**Note—**

Development controls in relation to the Sydney Olympic Park site for development under Part 4 of the Act are contained in Schedule 3 to this Policy.

### **4 Port and related employment lands**

(1) (Repealed)

(2) **Sydney Harbour** Development within the area identified as Glebe Island, White Bay, Rozelle Bay and Blackwattle Bay on the [Sydney Harbour Port and Related Employment Lands Map](#), being development with a capital investment value of not more than \$10 million that is carried out by a person other than a public authority.

### **5 Luna Park Site**

Development (with a capital investment value of not more than \$10 million) within the area identified as the Luna Park Site on Map 2 to Schedule 3.

## **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) (Repealed)

(b) development within the area identified as Glebe Island, White Bay, Rozelle Bay and Blackwattle Bay on the [Sydney Harbour Port and Related Employment Lands Map](#), being development with a capital investment value of not more than \$10 million.

### **2 Three Ports Site development**

(1) Development for community facilities, environmental facilities, environmental protection works and port facilities on land owned or managed by a public authority within the Three Ports Site, being development with a capital investment value of not more than \$30 million, whether or not the development is carried out by a public

authority.

(2) In this clause:

**port facilities** includes any of the following facilities at or in the vicinity of a designated port within the meaning of section 47 of the *Ports and Maritime Administration Act 1995*:

- (a) facilities for the embarkation or disembarkation of passengers onto or from any vessels, including public ferry wharves,
- (b) facilities for the loading or unloading of freight onto or from vessels and associated receipt, land transport and storage facilities,
- (c) wharves for commercial fishing operations,
- (d) refuelling, launching, berthing, mooring, storage or maintenance facilities for any vessel,
- (e) sea walls or training walls,
- (f) administration buildings, communication, security and power supply facilities, roads, rail lines, pipelines, fencing, lighting or car parks.

**Three Ports Site** means the land identified in Schedule 3 on the following maps:

- (a) the *State Environmental Planning Policy (Major Projects) Amendment (Three Ports) 2009 Newcastle Port Site Land Application Map*,
- (b) the *State Environmental Planning Policy (Major Projects) Amendment (Three Ports) 2009 Port Botany Site Land Application Map*,
- (c) the *State Environmental Planning Policy (Major Projects) Amendment (Three Ports) 2009 Port Kembla Site Land Application Map*.

## Schedule 8 Exempt development

(Clause 10B (1) and Schedule 3)

### Note—

*State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies exempt development under that Policy. The Policy has State-wide application.

## 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 spliheads 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 on the areas within Circular Quay, Darling Harbour or The Rocks as shown on the [Sydney Harbour Foreshore Sites Map](#).

- (2) In this Part:

**the public domain** means:

- (a) the public domain within the meaning of the [Sydney Harbour Foreshore Authority Act 1998](#), and
- (b) Lots 1 and 3, DP 876516.

#### 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 period of the use must be for not more than 10 consecutive days, from the start of set-up to the completion of clean-up for the use, and
- (ii) 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.

## **Part 4 Sydney Olympic Park site**

### **1 Ancillary event development**

- (1) Ancillary event development, subject to the following requirements:
  - (a) the ancillary event development must have the written approval of the owner and, if occupied, the occupier of the land on which the ancillary event development will be carried out and the approval must state that that ancillary event development will not exceed the relevant limit specified in paragraph (b),
  - (b) a location must not be used for more than 40 days, inclusive of set-up and clean-up time, in any calendar year,
  - (c) there must be no permanent physical change to the fabric of the location where the ancillary event development occurs,
  - (d) emergency vehicle access must be maintained to and around the location at all times,
  - (e) 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,
  - (f) the ancillary event development must not occur before 7.00 am or after 10.00 pm on any day, except Australia Day (when it may occur until midnight) and New Year's Eve (when it may occur until 2.00 am the following day),
  - (g) set-up time for the ancillary event development must not start earlier than 6.00 am,
  - (h) clean up time for the ancillary event development must end no later than 2 hours after it ceased under paragraph (f),
  - (i) temporary flags relating to the ancillary event development:
    - (i) must be attached to existing flagpoles, and
    - (ii) must not be displayed for more than 14 days before the ancillary event development starts, and
    - (iii) must be removed within 1 day after the ancillary event development ends,
  - (j) 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 ancillary event development starts, and
- (iv) must be removed within 2 days after the ancillary event development ends,
- (k) the noise level from the ancillary event development, 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.

(2) In this clause:

**ancillary event development** means development associated with the use of a major event venue, including temporary occupation and use of land, storage areas, truck lay by areas and the like.

## 2 Change of building use

(1) Change of use of a building:

- (a) from one kind of commercial premises to another kind of commercial premises, or
- (b) from one kind of retail premises to another kind of retail premises.

(2) Must be an existing legal use.

(3) The new use:

- (a) must not involve a change of class of building as defined in the *Building Code of Australia*, and
- (b) must not cause the building to contravene any conditions of any existing development consent applying to the building or land.

(4) In this clause:

**commercial premises** means a business premises or premises that are used for high technology industry.

## 3 Demolition

(1) Demolition of development that would be exempt development under this Part if it were being constructed or installed.

(2) The standards specified for that development are that the development must be carried out in accordance with AS 2601—2001, *Demolition of structures*.



#### **4 Development by the Authority**

The following development if carried out by or on behalf of the Authority on land vested in the Authority:

- (a) roads, cycleways, open car parks, ticketing facilities and viewing platforms,
- (b) outdoor recreational facilities, including playing fields, but not including grandstands,
- (c) information facilities such as visitors' centres and information boards,
- (d) lighting, if light spill and artificial sky glow is minimised in accordance with AS/NZS 1158: 2007, *Lighting for Roads and Public Spaces*,
- (e) landscaping, including irrigation schemes (whether they use recycled or other water),
- (f) amenity facilities,
- (g) maintenance depots,
- (h) environmental management works.

#### **5 Minor external building alterations**

- (1) A minor external non-structural alteration to a building, other than a dwelling, including (but not limited to) the following:
  - (a) painting, plastering, cement rendering, cladding, attaching fittings or decorative work,
  - (b) the replacement of an external window, glazing areas or a door (other than those on bush fire prone land),
  - (c) the repair to or replacement of a non-structural wall or roof cladding.
- (2) Must not comprise the making of, or an alteration to the size of, any opening in a wall or roof, such as a doorway, window or skylight.
- (3) Must not reduce the existing fire resistance level of a wall.
- (4) If undertaken on a heritage item, must be an activity listed in the Schedule to the order under section 57 (2) of the [Heritage Act 1977](#), published in the Gazette dated 23 October 1998, a copy of which is held in the head office of the Department.

#### **6 Public art**

A display of public art on land owned by the Authority, subject to the following requirements:

- (a) the placement of the public art must have the written approval of the owner and, if occupied, the occupier of the land,

- (b) the exhibition period must not be more than 6 months,
- (c) the public art must not be more than 2m in height,
- (d) the public art must not be more than 2m in diameter,
- (e) if an attribution panel is included in the display, the attribution panel must not be more than 1m<sup>2</sup>.

## **7 Seating**

The replacement of existing seating at a major event venue.

## **8 Signs**

- (1) A sign that:
  - (a) advertises an event at the Sydney Olympic Park site, provided that the sign is displayed not more than 2 months before or more than 14 days after the event, or
  - (b) replaces:
    - (i) an existing building identification sign, other than a sign at a major event venue, or
    - (ii) an existing business identification sign, or
    - (iii) existing sponsorship signage at a major event venue,if it is of the same size and scale as the sign or signage to be replaced.
- (2) A real estate sign that:
  - (a) is placed on the premises that is for sale or lease, and
  - (b) has an area that is less than 4.5m<sup>2</sup>.

## **Schedule 9 Complying development**

(Clause 10B (2) and Schedule 3)

### **Note—**

*State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies complying development under that Policy. The Policy has State-wide application.

## **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.

## **Part 2 Sydney Olympic Park site**

### **1 Development at major event venues**

The following development at a major event venue (other than Newington Armoury):

- (a) an internal or external alteration or addition that does not add more than 1,000m<sup>2</sup> to the external envelope of the major event venue,
- (b) a new seating area of not more than 1,000m<sup>2</sup>,
- (c) a replacement building identification sign that is of the same size, location and illumination standard as the existing sign, other than a replacement sign that is exempt development under that Part of Schedule 8 that relates to the Sydney Olympic Park site,
- (d) a new or replacement large format video screen within a stadium or auditorium.

### **2 Minor alterations and additions to buildings**

- (1) A minor interior or exterior alteration or addition to an existing building, other than a dwelling or a major event venue.
- (2) Must not change the dominant use of the building.
- (3) Must not add more than 100m<sup>2</sup> to the external envelope of the building.

- (4) Must not be undertaken on a building that is a heritage item, if the addition or alteration would impact on the heritage significance of the building.

### **3 Public art**

A display of public art on land owned by the Authority (other than a display of public art that is exempt development under Schedule 8), subject to the following requirements:

- (a) the placement of the public art must have the written approval of the owner and, if occupied, the occupier of the land,
- (b) the exhibition period must not be more than 6 months,
- (c) the public art must not be more than 6m in height,
- (d) the public art must not be more than 6m in diameter,
- (e) if an attribution panel is included in the display, the attribution panel must not be more than 1m<sup>2</sup>,
- (f) the public art must be structurally sound.