

# State Environmental Planning Policy (Infrastructure) 2007

[2007-641]



New South Wales

## Status Information

### Currency of version

Historical version for 3 January 2014 to 21 February 2014 (accessed 7 October 2024 at 19:50)

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—

- **Does not include amendments by**  
*State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Commercial and Industrial Development and Other Matters) 2013 (706)* (LW 20.12.2013) (not commenced — to commence on 22.2.2014)

### 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 3 January 2014

# State Environmental Planning Policy (Infrastructure) 2007



New South Wales

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# State Environmental Planning Policy (Infrastructure) 2007



New South Wales

## Part 1 Preliminary

### Note—

Nothing in this Policy (except clause 9) affects any requirement under another Act to obtain an approval, licence or permit for or concurrence to any development of a kind specified in Part 3. Examples of Acts imposing such requirements include the *Fisheries Management Act 1994*, *Forestry Act 1916*, *Heritage Act 1977*, *Mine Subsidence Compensation Act 1961*, *Mining Act 1992*, *National Parks and Wildlife Act 1974*, *Protection of the Environment Operations Act 1997*, *Roads Act 1993*, *Rural Fires Act 1997* and *Water Management Act 2000*.

### 1 Name of Policy

This Policy is *State Environmental Planning Policy (Infrastructure) 2007*.

### 2 Aim of Policy

The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by:

- (a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and
- (b) providing greater flexibility in the location of infrastructure and service facilities, and
- (c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and
- (d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and
- (e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and
- (f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing.

### 3 Commencement of Policy

This Policy commences on 1 January 2008.

### 4 Land to which Policy applies

Except as otherwise provided by this Policy, this Policy applies to the State.

### 5 Interpretation—general

(1) A word or expression used in this Policy has the same meaning as it has in the Standard Instrument unless it is otherwise defined in this Policy.

(2) In this Policy:

**associated public transport facilities** for a railway station, public ferry wharf or road means such of the following as are integrated or associated with the station, wharf or road:

- (a) car parks intended for use by commuters,
- (b) public transport interchanges (being locations intended for use by commuters to transfer between and to different kinds of public transport such as buses, trains and ferries),
- (c) bus bays (being locations that are set aside for buses to stop or park for the purpose of picking up and setting down passengers),
- (d) bus layovers.

**Blue Book** means *Managing Urban Stormwater: Soils & Construction* (4th edition, Landcom, 2004), commonly referred to as the “Blue Book” and as in force at the commencement of this Policy.

**bus layover** means a location set aside for buses to park during periods between bus journeys.

**Note—**

Bus layovers may (but need not) have amenities for bus drivers to use during periods between bus journeys.

**capital investment value** of development has the same meaning as in the [Environmental Planning and Assessment Regulation 2000](#).

**consent:**

- (a) when used in relation to the carrying out of development without consent, means development consent and any other type of consent, licence, permission, approval or authorisation that is required by or under an environmental planning instrument, and

(b) when used in any other context, means development consent.

**Note—**

As a result of paragraph (a) of the definition of **consent**, development that this Policy provides may be carried out without development consent may also be carried out without any other consent, licence, permission, approval or authorisation that would otherwise be required by another environmental planning instrument (such as an approval to remove a tree that is subject to a tree preservation order).

Development that does not require consent under Part 4 of the Act and is not a project to which Part 3A of the Act applies or exempt development will be subject to the environmental assessment and approval requirements of Part 5 of the Act.

**consent authority** has the same meaning as it has in the Act.

**Note—**

The Act defines **consent authority** as follows:

**consent authority**, in relation to a development application or an application for a complying development certificate, means:

- (a) the council having the function to determine the application, or
- (b) if a provision of the [Environmental Planning and Assessment Act 1979](#), the regulations under that Act or an environmental planning instrument specifies a Minister or public authority (other than a council) as having the function to determine the application—that Minister or public authority, as the case may be.

**emergency works** means works for the purpose of maintaining or restoring infrastructure facilities or equipment in order to ensure public safety or to protect buildings or the environment due to:

- (a) a sudden natural event, including a storm, flood, tree fall, bush fire, land slip or coastal inundation, or
- (b) accident, equipment failure or structural collapse, or
- (c) damage caused by vandalism or arson,

provided the works involve no greater disturbance to soil or vegetation than necessary and are carried out in accordance with all applicable requirements of the Blue Book.

**environmental management works** means:

- (a) works for the purpose of avoiding, reducing, minimising or managing the environmental effects of development (including effects on water, soil, air, biodiversity, traffic or amenity), and
- (b) environmental protection works.

**heritage conservation area** means land identified as a heritage conservation area or place of Aboriginal significance (or by a similar description) in an environmental planning instrument.

**heritage significance** means historic, scientific, cultural, social, archaeological, natural or aesthetic significance.

**infrastructure facility** means development that is the subject of development controls under Part 3.

**local heritage item** means:

- (a) a place, building, work, relic, tree, archaeological site or Aboriginal object that is identified as a heritage item (or by a similar description) in a local or regional environmental plan, or
- (b) an item of local heritage significance, as defined by the [Heritage Act 1977](#), that is the subject of an interim heritage order in force under that Act or is listed as an item of local heritage significance on the State Heritage Inventory under that Act.

**primary road** means the road to which the front of a dwelling house, or a main building, on a lot faces or is proposed to face.

**public authority**:

- (a) has the same meaning as it has in the Act, and
- (b) in respect of development connected with rail corridors or railway infrastructure facilities, includes the Australian Rail Track Corporation Limited (ACN 081 455 754).

**railway station** includes any station for a metro railway (within the meaning of the [Transport Administration Act 1988](#)).

**site compatibility certificate** means a certificate issued under clause 19 (5).

**Standard Instrument** means the standard local environmental planning instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#) made under the Act.

**State heritage item** means an item of State heritage significance, as defined by the [Heritage Act 1977](#), that is the subject of an interim heritage order in force under that Act or listed on the State Heritage Register under that Act.

**State land** means:

- (a) Crown land within the meaning of the [Crown Lands Act 1989](#), or
- (b) any other land of the Crown or vested in a Minister on behalf of the Crown, or
- (c) land owned by a public authority other than a council.

**telecommunications facility**—see clause 113.

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

**written notice** includes notice by electronic mail or facsimile.

- (3) If this Policy provides that development for a particular purpose that may be carried out without consent includes **construction works**, the following works or activities are (subject to and without limiting that provision) taken to be construction works if they are carried out for that purpose:
- (a) accessways,
  - (b) temporary construction yards,
  - (c) temporary lay-down areas for materials or equipment,
  - (d) temporary structures,
  - (e) conduct of investigations,
  - (f) clearing of vegetation (including any necessary cutting, lopping, ringbarking or removal of trees) and associated rectification and landscaping,
  - (g) demolition,
  - (h) relocation or removal of infrastructure,
  - (i) extraction of extractive materials at the construction site solely for the purpose of the construction.
- (4) If this Policy provides that development for a particular purpose that may be carried out without consent includes **routine maintenance works**, the following works or activities are (subject to and without limiting that provision) taken to be routine maintenance works if they are carried out for that purpose:
- (a) routine repairs to or replacement of equipment or assets,
  - (b) temporary construction yards,
  - (c) clearing of vegetation (including any necessary cutting, lopping, ringbarking or removal of trees) and associated rectification and landscaping.
- (5) Notes included in this Policy are provided for guidance and do not form part of this Policy.

## **6 Interpretation—references to equivalent land use zones**

- (1) A reference in this Policy to a land use zone that is equivalent to a named land use zone is a reference to a land use zone under an environmental planning instrument that is not made as provided by section 33A (2) of the Act:

- (a) that the Director-General has determined under clause 1.6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* is a land use zone in which equivalent land uses are permitted to those permitted in that named land use zone, or
  - (b) if no such determination has been made in respect of the particular zone, that is a land use zone in which (in the opinion of the relevant authority) equivalent land uses are permitted to those permitted in that named land use zone.
- (2) An assessment made by a relevant authority under subclause (1) (b) applies only in respect of the particular development that is proposed to be carried out and more than one such assessment may be made in respect of the same land use zone.
- (3) In this clause, **relevant authority** means:
- (a) the public authority proposing to carry out the development, or on whose behalf the development is proposed to be carried out, or
  - (b) if the development is to be carried out by or on behalf of a person other than a public authority, the Director-General.

**Note—**

Land use zones that are named in this Policy are those set out in the standard instrument.

## **7 Interpretation—references to 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.

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

**Note—**

This clause is subject to section 36 (4) of the Act.

- (1) Except as provided by subclause (2), if there is an inconsistency between this Policy

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

**Note—**

Subclause (1) does not prevent a local environmental plan from making provision about development of a kind specified in Part 3 in a particular zone if the provisions of this Policy dealing with development of that kind do not apply in that zone.

(2) Except as provided by subclause (3), if there is an inconsistency between this Policy and any of the following environmental planning instruments, the other instrument prevails to the extent of the inconsistency:

(a) *State Environmental Planning Policy No 14—Coastal Wetlands*,

(b) *State Environmental Planning Policy No 26—Littoral Rainforests*,

(c) *State Environmental Planning Policy (Major Projects) 2005*.

(3) Clauses 41 (2) (b), 48B, 79 (2) (b) and 94 (2) (b) of this Policy prevail over the following environmental planning instruments to the extent of any inconsistency:

(a) *State Environmental Planning Policy No 14—Coastal Wetlands*,

(b) *State Environmental Planning Policy No 26—Littoral Rainforests*.

**Note—**

Development may only be carried out on land to which SEPP 14 or SEPP 26 applies under clauses 41 (2) (b), 79 (2) (b) and 94 (2) (b) of this Policy if any adverse effect on the land is minimised.

## 9 Suspension of laws

(1) The Acts, regulations and provisions of Acts specified below in relation to particular development to which this Policy applies do not apply to that development to the extent necessary to enable the development to be carried out in accordance with this Policy or with a consent granted under the Act:

(a) development to which clause 7 (1) of *State Environmental Planning Policy No 54—Northside Storage Tunnel* applied immediately before its repeal—item 2 of Part A of the Table to section 68 of the *Local Government Act 1993*,

(b) development to which clause 7 (2) of *State Environmental Planning Policy No 54—Northside Storage Tunnel* applied immediately before its repeal—so much of the *National Parks and Wildlife Act 1974* and the regulations made under that Act as would prevent or restrict the continued operation of the Northside Storage Tunnel (as defined by clause 105),

(c) development to which clause 9 (1) of *State Environmental Planning Policy No 63—Major Transport Projects* applied immediately before its repeal—section 68 of the *Local Government Act 1993* and sections 86, 87 and 91 (b) of the *Public Works*



*Act 1912,*

- (d) development to which clause 8 (1) of *State Environmental Planning Policy (Sydney Metropolitan Water Supply) 2004* applied immediately before its repeal—Part 4 and Divisions 8 and 9 of Part 6 of the *Heritage Act 1977,*
- (e) development to which clause 9 (1) of *State Environmental Planning Policy (Sydney Metropolitan Water Supply) 2004* applied immediately before its repeal:
  - (i) the *Fisheries Management Act 1994* and the regulations made under that Act, and
  - (ii) section 68 of the *Local Government Act 1993,* and
  - (iii) so much of the *National Parks and Wildlife Act 1974* and the regulations made under that Act as would prevent or restrict the laying, maintenance, repair or use of seawater inlet and outlet pipelines and tunnelling under Botany Bay National Park, or to a sewer line, for a desalination plant (including a pilot plant) on the Kurnell Peninsula.

(2) This clause does not affect the rights or interests of any public authority under any registered instrument.

(3) In accordance with section 28 of the *Environmental Planning and Assessment Act 1979,* before the making of this Policy, the Governor approved the making of this clause with the concurrence in writing of the Ministers administering the Acts referred to in subclause (1).

## **10 Amendment and repeal of other environmental planning instruments**

(1) The environmental planning instruments specified in Schedule 4 are repealed.

(2), (3) (Repealed)

## **11 Savings provision**

(1) This Policy does not apply to or in respect of:

- (a) the determination of a development application made under Part 4 of the Act, but not finally determined before the commencement of this Policy, or
- (b) the determination of a project application made under Part 3A of the Act, but not finally determined before the commencement of this Policy, or
- (c) the carrying out of an activity for which an approval was granted under Part 5 of the Act before the commencement of this Policy, if the carrying out of the activity under that approval begins within 2 years after that commencement, or
- (d) the determination of an application for an approval for an activity made under Part

5 of the Act within 2 years before the commencement of this Policy but not finally determined before that commencement, or

- (e) the carrying out of an activity for which an approval was granted in response to an application referred to in paragraph (d) if the carrying out of the activity under that approval begins within 2 years after the grant of the approval, or
- (f) the carrying out of an activity for which the proponent is also the determining authority and in relation to which an environmental assessment under Part 5 of the Act has been completed if the carrying out of the activity is commenced within 2 years after the completion of the assessment.

(2) In this clause:

**activity** and **approval** have the same meanings as they have in Part 5 of the Act.

**project** has the same meaning as it has in Part 3A of the Act.

**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).

## **12 Review of Policy**

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

- (a) as soon as practicable after the first anniversary of the commencement of this Policy, and
- (b) at least every 5 years after that commencement.

## **Part 2 General**

### **Division 1 Consultation**

#### **13 Consultation with councils—development with impacts on council-related infrastructure or services**

- (1) This clause applies to development carried out by or on behalf of a public authority that this Policy provides may be carried out without consent if, in the opinion of the public authority, the development:
  - (a) will have a substantial impact on stormwater management services provided by a council, or

- (b) is likely to generate traffic to an extent that will strain the capacity of the road system in a local government area, or
  - (c) involves connection to, and a substantial impact on the capacity of, any part of a sewerage system owned by a council, or
  - (d) involves connection to, and use of a substantial volume of water from, any part of a water supply system owned by a council, or
  - (e) involves the installation of a temporary structure on, or the enclosing of, a public place that is under a council's management or control that is likely to cause a disruption to pedestrian or vehicular traffic that is not minor or inconsequential, or
  - (f) involves excavation that is not minor or inconsequential of the surface of, or a footpath adjacent to, a road for which a council is the roads authority under the [Roads Act 1993](#) (if the public authority that is carrying out the development, or on whose behalf it is being carried out, is not responsible for the maintenance of the road or footpath).
- (2) A public authority, or a person acting on behalf of a public authority, must not carry out development to which this clause applies unless the authority or the person has:
- (a) given written notice of the intention to carry out the development to the council for the area in which the land is located, and
  - (b) taken into consideration any response to the notice that is received from the council within 21 days after the notice is given.

#### **14 Consultation with councils—development with impacts on local heritage**

- (1) This clause applies to development carried out by or on behalf of a public authority if the development:
- (a) is likely to have an impact that is not minor or inconsequential on a local heritage item (other than a local heritage item that is also a State heritage item) or a heritage conservation area, and
  - (b) is development that this Policy provides may be carried out without consent.
- (2) A public authority, or a person acting on behalf of a public authority, must not carry out development to which this clause applies unless the authority or the person has:
- (a) had an assessment of the impact prepared, and
  - (b) given written notice of the intention to carry out the development, with a copy of the assessment, to the council for the area in which the heritage item or heritage conservation area (or the relevant part of such an area) is located, and
  - (c) taken into consideration any response to the notice that is received from the

council within 21 days after the notice is given.

### **15 Consultation with councils—development with impacts on flood liable land**

- (1) In this clause, **flood liable land** means land that is susceptible to flooding by the probable maximum flood event, identified in accordance with the principles set out in the manual entitled *Floodplain Development Manual: the management of flood liable land* published by the New South Wales Government and as in force from time to time.
- (2) A public authority, or a person acting on behalf of a public authority, must not carry out, on flood liable land, development that this Policy provides may be carried out without consent and that will change flood patterns other than to a minor extent unless the authority or person has:
  - (a) given written notice of the intention to carry out the development to the council for the area in which the land is located, and
  - (b) taken into consideration any response to the notice that is received from the council within 21 days after the notice is given.

### **16 Consultation with public authorities other than councils**

- (1) A public authority, or a person acting on behalf of a public authority, must not carry out specified development that this Policy provides may be carried out without consent unless the authority or person has:
  - (a) given written notice of the intention to carry out the development to the specified authority in relation to the development, and
  - (b) taken into consideration any response to the notice that is received from that authority within 21 days after the notice is given.
- (2) For the purposes of subclause (1), the following development is **specified development** and the following authorities are **specified authorities** in relation to that development:
  - (a) development adjacent to land reserved under the [National Parks and Wildlife Act 1974](#)—the Department of Environment and Climate Change,
  - (b) development adjacent to a marine park declared under the [Marine Parks Act 1997](#)—the Marine Parks Authority,
  - (c) development adjacent to an aquatic reserve declared under the [Fisheries Management Act 1994](#)—the Department of Environment and Climate Change,
  - (d) development in the foreshore area within the meaning of the [Sydney Harbour Foreshore Authority Act 1998](#)—the Sydney Harbour Foreshore Authority,
  - (e) development comprising a fixed or floating structure in or over navigable

waters—the Maritime Authority of NSW,

- (f) development for the purposes of an educational establishment, health services facility, correctional centre or group home, or for residential purposes, in an area that is bush fire prone land (as defined by the Act)—the NSW Rural Fire Service.

**Note—**

The Act defines **bush fire prone land**, in relation to an area, as land recorded for the time being as bush fire prone land on a map certified as referred to in section 146 (2) of the Act.

**Note—**

When carrying out development of a kind referred to in paragraph (f), consideration should be given to the publication of the NSW Rural Fire Service *Planning for Bush Fire Protection 2006*.

- (g) (Repealed)

**Note—**

Clause 18A (2) of *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* requires public authorities (or persons acting on their behalf) to consult with the Department of Planning and Infrastructure before carrying out any development comprising the clearing of native vegetation on certain land within a growth centre (within the meaning of that Policy). The land concerned is land other than the subject land (within the meaning of Part 7 of Schedule 7 to the *Threatened Species Conservation Act 1995*). The subject land is generally land to which precinct plans apply under that Policy.

## 17 Exceptions

- (1) Clauses 13–16 do not apply with respect to development to the extent that:

- (a) they would require notice of the intention to carry out the development to be given to a council or public authority from whom an approval is required in order for the development to be carried out lawfully, or
- (b) they would require notice to be given to a council or public authority with whom the public authority that is carrying out the development, or on whose behalf it is being carried out, has an agreed consultation protocol that applies to the development, or
- (c) they would require notice to be given to a council or public authority that is carrying out the development or on whose behalf it is being carried out, or
- (d) the development is exempt development or complying development under any environmental planning instrument (including this Policy), or
- (e) the development comprises emergency works, or
- (f) the development is carried out in accordance with a code of practice approved by the Minister for the purposes of this clause and published in the Gazette.

- (2) In this clause:

**approval** means any licence, permission or any form of authorisation, other than development consent, under any other law.

**consultation protocol** means an arrangement that:

- (a) is about when and how the parties to the arrangement will consult one another about proposed development, and
- (b) is recorded in writing, and
- (c) is approved in writing on behalf of any public authority that is a party to the arrangement by a person who is authorised to do so.

## Division 2 Additional uses of State land

### Note—

Consent for development under this Division may be granted only if the development is the subject of a certificate of the Director-General certifying that the development is compatible with surrounding land uses. The provisions of this Division extend to the classes of development specified in clauses 57 (2) and 62 (1).

### 18 Additional uses of certain State land permitted

- (1) This clause applies to State land unless:
  - (a) the land is subject to a standard local environmental plan made as provided by section 33A (2) of the Act, or
  - (b) the land is:
    - (i) zoned for conservation purposes under an environmental planning instrument, or
    - (ii) a State forest, flora reserve or timber reserve under the *Forestry Act 1916*, or
    - (iii) reserved under the *National Parks and Wildlife Act 1974*, or
    - (iv) reserved under the *Crown Lands Act 1989* for a public purpose that, in the opinion of the Director-General, is an environmental protection or nature conservation purpose.
- (2) If development for a particular purpose is permitted (with or without consent) on land by the zoning of that land, development for that purpose may be carried out on any adjacent State land to which this clause applies:
  - (a) with consent, if the development is permitted on the land with consent, or
  - (b) without consent, if the development is permitted on the land without consent, despite the provisions of any local environmental plan that applies to that State land.

**Note—**

Development includes subdivision of land—see the definition of **development** in the Act.

- (3) Consent must not be granted for development that this clause provides may be carried out with consent unless the consent authority is satisfied that the Director-General has certified in a site compatibility certificate that, in the Director-General's opinion, the development is compatible with the surrounding land uses.

**Note—**

A site compatibility certificate is not required for development that this clause provides may be carried out without consent.

- (4) This clause does not:

(a) prevent a consent authority from:

- (i) granting consent for development on a site by reference to site and design features that are more stringent than those identified in a site compatibility certificate for the same site, or
- (ii) refusing to grant consent for development by reference to the consent authority's own assessment of the compatibility of the development with the surrounding land uses, or

(b) otherwise limit the matters to which a consent authority may have regard in determining a development application for development to which this clause applies.

- (5) This clause applies regardless of whether the State land and the adjacent land concerned are subject to the same or different environmental planning instruments.
- (6) Land is adjacent to other land for the purpose of this clause even if it is separated from that other land by a road, or road related area, as defined by the [Road Transport \(General\) Act 2005](#).
- (7) In this clause, a reference to land **zoned for conservation purposes** means land in any of the following land use zones or in a land use zone that is equivalent to any of those zones:
- (a) RE1 Public Recreation,
- (b) E1 National Parks and Nature Reserves,
- (c) E2 Environmental Conservation,
- (d) W1 Natural Waterways.

## **Division 3 Site compatibility certificates**

### **19 Site compatibility certificates**

- (1) An application for a site compatibility certificate for the purpose of clause 18, 57 (3) or 63C (2) (a) may be made to the Director-General:
  - (a) by the owner of the land on which the development is proposed to be carried out,  
or
  - (b) by any other person with the consent of the owner of that land.
- (2) An application under this clause:
  - (a) must be in writing in the form approved by the Director-General, and
  - (b) must be accompanied by such documents and information as the Director-General may require, and
  - (c) must be accompanied by such fee, if any, as is prescribed by the regulations.
- (3) The Director-General may request further documents and information to be furnished in connection with an application under this clause.
- (4) Within 7 days after the application is made, the Director-General must provide a copy of the application to the council for the area in which the development concerned is proposed to be carried out, unless the Director-General refuses, before those 7 days have elapsed, to issue a certificate.
- (5) Subject to subclause (6), the Director-General may determine the application by issuing a certificate or refusing to do so.
- (6) The Director-General must not issue a certificate unless the Director-General:
  - (a) has taken into account any comments received from the council within 14 days after the application for the certificate was made, and
  - (b) is of the opinion that the development concerned is compatible with the surrounding land uses having regard to the following matters:
    - (i) the existing uses and approved uses of land in the vicinity of the development,
    - (ii) the impact that the development (including its bulk and scale) is likely to have on the existing uses, approved uses and uses that, in the opinion of the Director-General, are likely to be the preferred future uses of that land,
    - (iii) the services and infrastructure that are or will be available to meet the demands arising from the development, and
  - (c) is of the opinion that the development concerned is not likely to have an adverse



effect on the environment and does not cause any unacceptable environmental risks to the land.

- (7) A certificate may certify that the development to which it relates is compatible with the surrounding land uses only if it satisfies certain requirements specified in the certificate.
- (8) A certificate continues to apply to the land in respect of which it was issued despite any change in the ownership of that land.
- (9) A certificate is valid for 5 years or such other period specified in the certificate.

## Division 4 Exempt development

### Note 1—

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.

The section states that 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](#)).

### Note 2—

In addition to the requirements set out in this Policy in relation to exempt development, adjoining owners' property rights, the applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply. For example, requirements relevant to the kind of exempt development concerned may be contained in the Act, the [Environmental Planning and Assessment Regulation 2000](#), various State environmental planning policies, the [Protection of the Environment Operations Act 1997](#), the [Roads Act 1993](#) and Acts applying to various infrastructure authorities. If the development is in proximity to infrastructure, including water, stormwater and sewer mains, electricity power lines and telecommunications facilities, the relevant infrastructure authority should be contacted before commencing the development.

## 20 General requirements for exempt development

- (1) This clause applies to any development that this Policy provides is exempt development.

### Note—

Clause 20A and other provisions of this Policy identify kinds of development that are exempt development if they meet the requirements of this clause.

- (2) To be exempt development, the development:
  - (a) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, or if there are no such relevant provisions, must be structurally adequate, and
  - (b) must not, if it relates to an existing building:

- (i) cause the building to contravene the *Building Code of Australia*, or
- (ii) compromise the fire safety of the building or affect access to any fire exit, and
- (c) must be carried out in accordance with all relevant requirements of the Blue Book, and
- (d) must not be designated development, and

**Note—**

Designated development is defined in section 77A of the Act as development that is declared to be designated development by an environmental planning instrument or the regulations.

- (e) if it is likely to affect a State or local heritage item or a heritage conservation area, must involve no more than minimal impact on the heritage significance of the item or area, and
- (f) must be installed in accordance with the manufacturer's specifications, if applicable, and
- (g) must not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent.

**Note—**

A permit for the removal or pruning of a tree or other vegetation may be granted under a local environmental plan. A development consent for the removal of native vegetation may be granted under the *Native Vegetation Act 2003*.

## **20A Exempt development carried out by public authorities for purposes in Schedule 1**

Development for a purpose specified in Schedule 1 is exempt development if:

- (a) it is carried out by or on behalf of a public authority, and
- (b) it meets the development standards for the development specified in Schedule 1, and
- (c) it complies with clause 20.

## **Division 5 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.

The section states that 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, Climate Change and Water 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.

## **20B General requirements for complying development**

- (1) This clause applies to any development that this Policy provides is complying development.
- (2) To be complying development, the development must:
  - (a) not be exempt development under this Policy, and
  - (b) be permissible, with consent, in the land use zone in which it is carried out, and
  - (c) meet the relevant provisions of the *Building Code of Australia*, and
  - (d) before the complying development certificate is issued, have written consent from the relevant roads authority, if required by the *Roads Act 1993*:
    - (i) for each opening of a public road required by the development, and
    - (ii) to operate or store machinery, materials or waste required by the development on a road or footpath reserve, and
  - (e) if it is the alteration or erection of improvements on land in a mine subsidence district within the meaning of the *Mine Subsidence Compensation Act 1961*, have the prior approval of the Mine Subsidence Board, and

### **Note—**

Information about mine subsidence is information that is a prescribed matter for the purpose of a planning certificate under section 149 (2) of the Act.

- (f) not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent, and

### **Note—**

A permit for the removal or pruning of a tree or other vegetation may be granted under a local environmental plan. A development consent for the removal of native vegetation may be granted under the *Native Vegetation Act 2003*.

- (g) not be carried out within 1m of any public sewer, if the development comprises

the erection of a building, except with the written approval of the authority that has management or control of that sewer.

## **20C General conditions of complying development certificates**

### **Note—**

The *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2008* contain provisions relating to noise.

- (1) **General** A complying development certificate for complying development under this Policy is subject to the conditions specified in this clause.

### **Note—**

The regulations made under the Act contain additional conditions of a complying development certificate.

- (2) **Conditions applying before works commence** A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of works if the works:
- (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
  - (b) could cause damage to adjoining lands by falling objects, or
  - (c) involve the enclosure of a public place or part of a public place.

### **Note—**

See the entry for hoardings in Schedule 1. See also the entry for scaffolding, hoardings and temporary construction site fences in the General Exempt Development Code in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

- (3) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
- (4) Each toilet must:
- (a) be a standard flushing toilet connected to a public sewer, or
  - (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
  - (c) be a temporary chemical closet approved under the *Local Government Act 1993*.
- (5) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- (6) **Conditions applying during works** Construction or demolition may only be carried out

between 7.00 am and 5.00 pm on Monday to Saturday and no construction or demolition is to be carried out at any time on a Sunday or a public holiday.

- (7) Works must be carried out in accordance with the plans and specifications to which the complying development certificate relates.
- (8) Run-off and erosion controls must be effectively maintained until the site has been stabilised and landscaped.
- (9) Building, or demolition, materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (10) Demolition materials and waste materials must be sorted, and must be disposed of at a waste or resource management facility.
- (11) The work site must be left clear of waste and debris at the completion of the works.
- (12) **Utility services** If the complying development requires alteration to, or the relocation of, utility services on the lot on which the complying development is carried out, the complying development is not complete until all such works are carried out.
- (13) **Post-works requirements** If:
  - (a) the development involves the erection or change of use of a building within a water supply authority's area of operations, and
  - (b) the water supply authority requires a certificate of compliance to be obtained with respect to the erection or change of use of the building,the building cannot be occupied before such a certificate has been obtained.

- (14) In this clause:

**certificate of compliance**, in relation to a water supply authority, means a certificate of compliance issued by the water supply authority under the Act under which the water supply authority is constituted.

**water supply authority** means:

- (a) the Sydney Water Corporation, the Hunter Water Corporation or a water supply authority within the meaning of the [Water Management Act 2000](#), or
- (b) a council or county council exercising water supply, sewerage or stormwater drainage functions under Division 2 of Part 3 of Chapter 6 of the [Local Government Act 1993](#).

## Part 3 Development controls

### Division 1 Air transport facilities

#### 21 Definitions

In this Division:

**air transport facility** means an airport, or a heliport that is not part of an airport, and includes associated communication and air traffic control facilities or structures.

**airport** means a place used for the landing, taking off, parking, maintenance or repair of aeroplanes (including associated buildings, installations, facilities and movement areas and any heliport that is part of the airport).

**heliport** has the same meaning as it has in the Standard Instrument.

**Note—**

The Standard Instrument defines **heliport** as follows:

**heliport** means a place open to the public used for the taking off and landing of helicopters whether or not it includes:

- (a) a terminal building, or
- (b) facilities for the parking, storage or repair of helicopters.

#### 22 Development permitted without consent

- (1) Development for the purpose of an airport may be carried out by or on behalf of a public authority without consent on land in any of the following land use zones or in a land use zone that is equivalent to any of those zones:
  - (a) RU1 Primary Production,
  - (b) RU2 Rural Landscape,
  - (c) IN4 Working Waterfront,
  - (d) SP1 Special Activities,
  - (e) SP2 Infrastructure,
  - (f) W2 Recreational Waterways,
  - (g) W3 Working Waterways.
- (2) Development for the purpose of an air transport facility, being a heliport that is not part of an airport, may be carried out by or on behalf of a public authority without consent on land in any of the following land use zones or in a land use zone that is equivalent to any of these zones:

- (a) RU1 Primary Production,
- (b) RU2 Rural Landscape,
- (c) RU4 Rural Small Holdings,
- (d) IN1 General Industrial,
- (e) IN2 Light Industrial,
- (f) IN3 Heavy Industrial,
- (g) IN4 Working Waterfront,
- (h) SP1 Special Activities,
- (i) SP2 Infrastructure,
- (j) W2 Recreational Waterways,
- (k) W3 Working Waterways.

(3) A reference in this clause to development for the purpose of an air transport facility includes a reference to development for any of the following purposes if the development is in connection with an air transport facility:

- (a) construction works,
- (b) fencing, drainage or vegetation management.

### **23 Development permitted with consent**

Development for any of the following purposes may be carried out with consent on land within the boundaries of an existing air transport facility, if the development is ancillary to the air transport facility:

- (a) passenger terminals,
- (b) facilities for the receipt, forwarding or storage of freight,
- (c) hangars for aircraft storage, maintenance and repair,
- (d) premises for retail, business, recreational, residential or industrial uses.

## **Division 2 Correctional centres**

### **24 Definition**

In this Division:

***correctional centre*** means:

- (a) any premises declared to be a correctional centre by a proclamation in force under section 225 of the *Crimes (Administration of Sentences) Act 1999*, including any juvenile correctional centre or periodic detention centre, and
- (b) any premises declared to be a detention centre by an order in force under section 5 (1) of the *Children (Detention Centres) Act 1987*,

but does not include any police station or court cell complex in which a person is held in custody in accordance with any Act.

**prescribed zone** means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) RU2 Rural Landscape,
- (b) RU4 Rural Small Holdings,
- (c) RU6 Transition,
- (d) B4 Mixed Use,
- (e) SP1 Special Activities,
- (f) SP2 Infrastructure.

## **25 Development permitted with consent**

- (1) Development for the purpose of correctional centres may be carried out by or on behalf of a public authority with consent on land in a prescribed zone.
- (2) Development for the purpose of a correctional centre may be carried out by or on behalf of a public authority with consent on Lot 1, DP 740367 in the vicinity of Windsor in the City of Penrith.
- (3) A reference in this clause to development for the purpose of correctional centres includes a reference to development for any of the following purposes if the development is associated with a correctional centre:
  - (a) accommodation for staff,
  - (b) administration buildings,
  - (c) car parks for visitors and staff,
  - (d) educational establishments,
  - (e) group homes (as defined by clause 59),
  - (f) health services facilities (as defined by clause 56),



(g) industries,

(h) recreational facilities.

## 26 Development permitted without consent

Development for any of the following purposes may be carried out by or on behalf of a public authority without consent on land within a prescribed zone if the development is in connection with an existing correctional centre:

- (a) transitional group homes that each contain not more than 5 bedrooms and accommodate fewer residents than the number equal to the number calculated by multiplying the number of bedrooms in the home by 2,
- (b) sporting facilities or additions to sporting facilities, if the development does not involve clearing of more than 2 hectares of native vegetation,
- (c) demolition of buildings,
- (d) replacement of accommodation, administration or other facilities in, or minor alterations of or additions to, a correctional centre, if the development does not allow for an increase in:
  - (i) the number of persons accommodated at the centre, or
  - (ii) the number of staff employed at the centre,that is greater than 10 per cent (compared with the average of each of those numbers for the 12 month period immediately prior to the commencement of the development).

## Division 3 Educational establishments

### 27 Definitions

In this Division:

**educational establishment** has the same meaning as it has in the Standard Instrument.

**Note—**

The term **educational establishment** is defined by the Standard Instrument as follows:

**educational establishment** means a building or place used for education (including teaching), being:

- (a) a school, or
- (b) a tertiary institution, including a university or a TAFE establishment, that provides formal education and is constituted by or under an Act.

**prescribed zone** means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) RU2 Rural Landscape,
- (b) RU4 Rural Small Holdings,
- (c) RU5 Village,
- (d) RU6 Transition,
- (e) R1 General Residential,
- (f) R2 Low Density Residential,
- (g) R3 Medium Density Residential,
- (h) R4 High Density Residential,
- (i) R5 Large Lot Residential,
- (j) B1 Neighbourhood Centre,
- (k) B2 Local Centre,
- (l) B3 Commercial Core,
- (m) B4 Mixed Use,
- (n) B5 Business Development,
- (o) B6 Enterprise Corridor,
- (p) B7 Business Park,
- (p1) B8 Metropolitan Centre,
- (q) SP1 Special Activities,
- (r) SP2 Infrastructure,
- (s) E4 Environmental Living.

***school*** has the same meaning as it has in the Standard Instrument.

**Note—**

The term ***school*** is defined by the Standard Instrument as follows:

***school*** means a government school or non-government school within the meaning of the [Education Act 1990](#).

***TAFE establishment*** has the same meaning as it does in the [Technical and Further Education Commission Act 1990](#).

## **28 Development permitted with consent**

- (1) Development for the purpose of educational establishments may be carried out by any person with consent on land in a prescribed zone.
- (1A), (1B) (Repealed)
- (1C) Development for a purpose specified in clause 31A (1) may be carried out by any person with consent on land on which there is an existing school or TAFE establishment.
- (2) Development for any of the following purposes may be carried out by any person with consent on any of the following land:
  - (a) development for the purpose of educational establishments—on land on which there is an existing educational establishment,
  - (b) development for the purpose of the expansion of existing educational establishments—on land adjacent to the existing educational establishment.
- (3) An educational establishment (including any part of its site and any of its facilities) may be used, with consent, for any community purpose, whether or not it is a commercial use of the establishment.
- (4) Subclause (3) does not require consent to carry out development on land if that development could, but for this Policy, be carried out on that land without consent.

## **29 Development permitted without consent**

- (1) Development for any of the following purposes may be carried out by or on behalf of a public authority without consent on land in a prescribed zone if the development is in connection with an existing educational establishment:
  - (a) construction, operation or maintenance, more than 5m from any property boundary, of:
    - (i) a library or an administration building that is not more than one storey high, or
    - (ii) a portable classroom that is not more than one storey high, or
    - (iii) a permanent classroom that is not more than one storey high to replace an existing portable classroom and that is used for substantially the same purpose as the portable classroom, or
    - (iv) a tuckshop, cafeteria or bookshop to provide for students and staff that is not more than one storey high, or
    - (v) a sporting field, tennis court, basketball court or any other type of court used for sport, and associated awnings or canopies, if the development does not

- involve clearing of more than 2 hectares of native vegetation, or
  - (vi) a car park that is not more than one storey high, or
  - (vii) a toilet block, or
  - (viii) if the development is on bush fire prone land or if the educational establishment is, or contains, a heritage item—an outdoor learning or play area and associated awnings or canopies,
- (b) minor alterations or additions, such as:
- (i) internal fitouts, or
  - (ii) alterations or additions to address occupational health and safety requirements or to provide access for people with a disability,
- (c) restoration, replacement or repair of damaged facilities,
- (d) demolition of buildings or structures,
- (e) environmental management works.
- (2) However, subclause (1) only applies to development that:
- (a) does not allow for an increase in:
- (i) the number of students at the educational establishment, or
  - (ii) the number of staff employed at the establishment,
- that is greater than 10 per cent (compared with the average of each of those numbers for the 12 month period immediately prior to the commencement of the development), and
- (b) will not necessitate an alteration of transport or traffic arrangements.
- (3) Development for the purpose of a portable one storey classroom may be carried out by any person without consent on land on which a school is located, if the classroom is located more than 5m from any property boundary.

### **30 Notification of carrying out of certain development without consent**

- (1) This clause applies to development to which clause 29 (1) (a) or (3) applies that is not a project to which Part 3A of the Act applies.
- (2) Before development to which this clause applies is carried out, the proponent of the development must:
- (a) give written notice of the intention to carry out the development to the council for

the area in which the land is located (unless the proponent is that council) and to the occupiers of adjoining land, and

- (b) take into consideration any response to the notice that is received within 21 days after the notice is given.

### **31 Exempt development**

- (1) Development for any of the following purposes is exempt development if it is in connection with an existing educational establishment and complies with clause 20:
  - (a) an awning or canopy that is not within 5m of any property boundary,
  - (b) the removal or lopping of a tree because the tree poses a risk to human health or safety or if the removal or lopping is in accordance with the State government publication *School Facilities Standards—Landscape Standard—Version 22* (March 2002).

**Note—**

A copy of the *School Facilities Standards—Landscape Standard—Version 22* is available for inspection by the public free of charge at the head office of the Department of Planning—see clause 32.

- (1A) Clause 20 (2) (g) does not apply in relation to development carried out under subclause (1) (b).
- (2) Development for a purpose specified in Schedule 1 that is carried out by a person other than a public authority is exempt development if:
  - (a) it is carried out on land within the boundaries of an existing educational establishment, and
  - (b) it meets the development standards for the development specified in Schedule 1, and
  - (c) it complies with clause 20.

**Note—**

Clause 20A covers development carried out by or on behalf of a public authority.

### **31A Complying development—existing schools and TAFE establishments**

- (1) Development carried out by or on behalf of any person on land within the boundaries of an existing school or TAFE establishment is complying development if:
  - (a) it consists of the construction of, or alterations or additions to, any of the following:
    - (i) a library or an administration building,
    - (ii) a gym, indoor sporting facility or hall,

- (iii) a classroom, lecture theatre, laboratory, trade or training facility,
  - (iv) a tuckshop, cafeteria, bookshop or child care facility to provide for students or staff (or both),
  - (v) a hall with an associated covered outdoor learning area or tuck shop,
  - (vi) if the development is not on bush fire prone land or if the educational establishment is not, or does not contain, a heritage item—an outdoor learning or play area and associated awnings or canopies,
  - (vii) a car park, and
- (b) it complies with this clause and clause 20B (General requirements for complying development).
- (1A) (Repealed)
- (2) Development carried out by or on behalf of any person on land within the boundaries of an existing school or TAFE establishment is complying development if:
- (a) it is an alteration or addition referred to in subclause (1) that is carried out for the purpose of a change of use to another use specified in that subclause, and
  - (b) it complies with this clause and clause 20B (General requirements for complying development).
- (3) Clause 20B (2) (f) does not apply in relation to development carried out under this clause.
- (4) The following are the development standards for complying development under this clause:
- (a) **Building height standard.** The building height of a building must not exceed 12m.
  - (b) **Side and rear setback standard.** A building must be located at least 5m from any side or rear boundary of the land.
  - (c) **Materials standard.** Any new external walls or roof of a building must be constructed of non-reflective material.
  - (d) **Noise standard.** A building to be used for the purpose of a gym, indoor sporting facility or hall that is located less than 20m from a common boundary with land zoned residential must be designed to meet the acoustic performance elements contained in item 11.05.e of the State government publication *School Facilities Standards—Design Standard—Version 1/09/2006*.
  - (e) **Overshadowing standard.** A building must not overshadow any adjoining

residential property so that:

- (i) solar access to any habitable room on the adjoining property is reduced to less than the minimum level (being 2 hours of solar access between 9 am and 3 pm at the winter solstice) or is reduced in any manner (if solar access to any habitable room on the adjoining property is already below the minimum level), or
- (ii) solar access to the principal private open space of the adjoining property is reduced to less than the minimum level (being 3 hours of solar access to not less than 50% of that principal private open space between 9 am and 3 pm at the winter solstice) or is reduced in any manner (if solar access to the principal private open space of the adjoining property is already below the minimum level).

**31B (Repealed)**

**31C Complying development certificates—additional conditions**

A complying development certificate for development that is complying development under this Division is subject to the following conditions (in addition to the conditions set out in clause 20C):

- (a) (Repealed)
- (b) any demolition work must be carried out in accordance with *AS 2601—2001 The Demolition of Structures*, published by Standards Australia on 13 September 2001,
- (c) (Repealed)
- (d) any removal or lopping of vegetation must be carried out in accordance with State government publication *School Facilities Standards—Landscape Standard—Version 22* (March 2002),
- (e) development must be carried out in accordance with all relevant requirements of the Blue Book,
- (f) the person having the benefit of the complying development certificate must give at least 2 days' notice in writing of the intention to commence the works to the owner or occupier of any dwelling that is situated within 20m of the lot on which the works will be carried out.
- (g)-(i) (Repealed)

**32 Determination of development applications**

- (1) (Repealed)
- (2) Before determining a development application for development for the purposes of a

school, the consent authority must take into consideration all relevant standards in the following State government publications (as in force on the commencement of this Policy):

(a) *School Facilities Standards—Landscape Standard—Version 22* (March 2002),

(b) *Schools Facilities Standards—Design Standard* (Version 1/09/2006),

(c) *Schools Facilities Standards—Specification Standard* (Version 01/11/2008).

- (3) If there is an inconsistency between a standard referred to in subclause (2) and a provision of a development control plan, the standard prevails to the extent of the inconsistency.
- (4) Copies of the standards referred to in subclause (2) are available for inspection by the public at the head office of the Department of Planning and such other offices of the Department (if any) as the Director-General may determine.
- (5) If a development application has been made before the commencement of the amendment to this clause by [State Environmental Planning Policy \(Infrastructure\) Amendment \(Group Homes\) 2009](#), and the application has not been finally determined before that commencement, the application must be determined as if that amendment had not been made.

## Division 4 Electricity generating works or solar energy systems

### 33 Definitions

In this Division:

**electricity generating works** has the same meaning as it has in the Standard Instrument.

**Note—**

The term **electricity generating works** is defined by the Standard Instrument as follows:

**electricity generating works** means a building or place used for the purpose of making or generating electricity.

**prescribed residential zone** means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (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 R5 Large Lot Residential,
- (f) Zone RU5 Village.

**prescribed rural zone** means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) Zone RU1 Primary Production,
- (b) Zone RU2 Rural Landscape,
- (c) Zone RU3 Forestry,
- (d) Zone RU4 Rural Small Holdings.

**prescribed rural, industrial or special use zone** means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) RU1 Primary Production,
- (b) RU2 Rural Landscape,
- (c) RU3 Forestry,
- (d) RU4 Rural Small Holdings,
- (e) IN1 General Industrial,
- (f) IN2 Light Industrial,
- (g) IN3 Heavy Industrial,
- (h) IN4 Working Waterfront,
- (i) SP1 Special Activities,
- (j) SP2 Infrastructure.

**small wind turbine** means a wind turbine that has a generating capacity of no more than 100kW.

**small wind turbine system** means a system comprising one or more small wind turbines each of which feed into the same grid or battery bank.

**solar energy system** means any of the following systems:

- (a) a photovoltaic electricity generating system,
- (b) a solar hot water system,
- (c) a solar air heating system.

**waste or resource management facility** has the same meaning as it has in Division 23 of this Part (Waste or resource management facilities).

### **34 Development permitted with consent**

- (1) Development for the purpose of electricity generating works may be carried out by any person with consent on any land in a prescribed rural, industrial or special use zone.
- (2) Development for the purpose of a back-up electricity generating plant that operates for not more than 200 hours in any year may be carried out by any person with consent on any land.
- (2A) Development for the purpose of the expansion of existing electricity generating works may be carried out by or on behalf of a public authority with consent on any land that is adjacent to the existing works.
- (2B) Consent is not required to carry out any such development on land if the development could, but for subclause (2A), be carried out on that land without consent.
- (3) Development for the purpose of, or resulting in, a change of fuel source of an existing coal or gas fired generating works by a proportion of more than 5 per cent in any 12 month period may only be carried out with consent.
- (4) If, under any environmental planning instrument (including this Policy), development for the purpose of:
  - (a) industry, or
  - (b) a waste or resource management facility,may be carried out on land with consent, development for the purpose of electricity generating works that generate energy from waste, or from gas generated by waste, may also be carried out by any person with consent on that land.
- (5) Without limiting subclause (1), development for the purpose of a small wind turbine system may be carried out by any person with consent on any land.
- (6) However, subclause (5) only applies in relation to land in a prescribed residential zone if:
  - (a) the small wind turbine system has the capacity to generate no more than 10kW, and
  - (b) the height of any ground-mounted small wind turbine in the system from ground level (existing) to the topmost point of the wind turbine is no more than 18m.
- (7) **Solar energy systems** Except as provided by subclause (8), development for the

purpose of a solar energy system may be carried out by any person with consent on any land.

- (8) Development for the purpose of a photovoltaic electricity generating system may be carried out by a person with consent on land in a prescribed residential zone only if the system has the capacity to generate no more than 100kW.

### **35 Other development permitted with consent where electricity generating works permitted**

If, under any environmental planning instrument (including this Policy), development for the purpose of coal-fired or gas-fired electricity generating works may be carried out on land with consent, development for the purpose of industry may also be carried out by any person with consent on that land if the industry:

- (a) is located close to the works, and
- (b) provides opportunities for energy efficiency or co-generation in the operation of the works.

### **36 Development permitted without consent**

- (1) Development for any of the following purposes may be carried out by or on behalf of a public authority without consent on any land:

- (a) the generation or distribution of hydro-electric power using existing dam infrastructure,
- (b) routine maintenance of, or emergency works relating to, electricity generating works,
- (c) the installation of plant that:
  - (i) is on the site of, and required in connection with, existing electricity generating works, and
  - (ii) does not increase the existing electricity generating capacity of the works by more than 2 percent.

- (1A) In subclause (1) (c), **existing electricity generating capacity** of works includes the electricity generating capacity of the works, as changed from time to time as a result of the alteration of the works (other than solely as a result of alterations that have been carried out in reliance on that paragraph).

- (2) If, under any environmental planning instrument (including this Policy), development for the purpose of sewage treatment works may be carried out on land without consent, development for the purpose of electricity generating works that generate energy from waste, or from gas generated by waste, may also be carried out by any person without consent on that land.

- (3) **Solar energy systems** Development for the purpose of a solar energy system may be carried out by or on behalf of a public authority without consent on any land if:
- (a) it is ancillary to an existing infrastructure facility, and
  - (b) in the case of development for the purpose of a photovoltaic electricity generating system—the system has the capacity to generate no more than 100kW.

### 37 Complying development

- (1) **Small wind turbine systems** Development for the purpose of a small wind turbine system is complying development on any land if:
- (a) the development complies with clause 20B, and
  - (b) the land is not in a heritage conservation area, and
  - (c) the system is installed no less than:
    - (i) 25 metres—in the case of a system that has a source sound power level of 0–70 dB(A), or
    - (ii) 40 metres—in the case of a system that has a source sound power level of 71–80 dB(A), or
    - (iii) 126 metres—in the case of a system that has a source sound power level of 81–90 dB(A), or
    - (iv) 200 metres—in the case of a system that has a source sound power level of more than 91 dB(A), or
    - (v) 200 metres—in the case of a system that has an unknown source sound power level,from any dwelling that is not owned or occupied by the owner of the system, and
  - (d) the system is located clear of any works, including power lines, of any relevant network operator (within the meaning of the *Electricity Supply Act 1995*) and complies with any requirements of the network operator that relate to clearance from those works, and
  - (e) the system is installed in accordance with the manufacturer's specifications or by a person who is endorsed for the design and installation of small wind turbine systems under the Clean Energy Council's wind endorsement scheme, and
  - (f) in the case of any ground-mounted small wind turbine in the system—the turbine does not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 2 kilometres of the proposed development and reported to

the Civil Aviation Safety Authority, and

(g) in the case of land in a prescribed residential zone:

(i) the system has the capacity to generate no more than 10kW, and

(ii) if the system is ground-mounted:

(A) the development will result in no more than one small wind turbine being situated on the lot concerned, and

(B) the small wind turbine has a height of not more than 18m above ground level (existing), and

(C) the small wind turbine is not installed forward of any existing building line on the lot concerned that faces a primary road, and

(iii) if the system is not ground-mounted:

(A) the development will result in no more than 2 small wind turbines being situated on the lot concerned, and

(B) each small wind turbine does not protrude more than 3m above any building to which it is attached (as measured from the point of attachment), and

(C) each small wind turbine is not attached to a wall or roof facing a primary road, and

(h) in the case of land in a prescribed rural, industrial or special use zone:

(i) the system has the capacity to generate no more than 100kW, and

(ii) if the system is ground-mounted:

(A) the development will result in no more than 3 small wind turbines being situated on the lot concerned, and

(B) each small wind turbine has a height of not more than 35m above ground level (existing), and

(iii) if the system is not ground-mounted:

(A) the development will result in no more than 4 small wind turbines being situated on the lot concerned, and

(B) each small wind turbine does not protrude more than 5m above any building to which it is attached (as measured from the point of attachment), and

- (i) in the case of land in any land use zone other than a land use zone referred to in paragraph (g) or (h):
  - (i) the system has the capacity to generate no more than 100kW, and
  - (ii) if the system is ground-mounted:
    - (A) the development will result in no more than 2 small wind turbines being situated on the lot concerned, and
    - (B) each small wind turbine has a height of not more than 26m above ground level (existing), and
  - (iii) if the system is not ground-mounted:
    - (A) the development will result in no more than 4 small wind turbines being situated on the lot concerned, and
    - (B) each small wind turbine does not protrude more than 5m above any building to which it is attached (as measured from the point of attachment).

(2) **Solar energy systems** Development for the purpose of a solar energy system is complying development on any land if:

- (a) the development complies with clause 20B, and
- (b) the land is not in a heritage conservation area, and
- (c) in the case of development for the purposes of a photovoltaic electricity generating system:
  - (i) the system is installed in accordance with the manufacturer's specifications or by a person who is accredited by the Clean Energy Council for the installation of photovoltaic electricity generating systems, and
  - (ii) the system has the capacity to generate no more than 100kW if the land is in a prescribed residential zone, and
- (d) in the case of development for the purposes of a system other than a photovoltaic electricity generating system—the system is installed in accordance with the manufacturer's specifications, and
- (e) in the case of a system that is ground-mounted:
  - (i) the system occupies an area of not more than 500m<sup>2</sup>, and
  - (ii) the system has a height of not more than 10m above ground level (existing), and

- (iii) the system is installed no less than 10m from any adjoining property boundary, and
  - (iv) if the system involves the use of mirrors or lenses to reflect or concentrate sunlight—the system is installed no less than 100m from any dwelling or other building that is not owned or occupied by the owner of the system, and
  - (v) if the solar energy system is a photovoltaic electricity generating system having the capacity to generate 10kW or more—the system is installed no less than 50m from any dwelling that is not owned or occupied by the owner of the system, and
- (f) in the case of a system that is not ground-mounted:
- (i) the development does not reduce the structural integrity of, or involve structural alterations to, any building to which it is attached, and

**Note—**

The term **building** is defined in the [Environmental Planning and Assessment Act 1979](#) as including any structure.

- (ii) the system does not involve mirrors or lenses to reflect or concentrate sunlight, and
  - (iii) if the land is in a prescribed residential zone and is attached to a wall or roof facing a primary road—the system does not protrude more than 0.5m from the wall or roof (as measured from the point of attachment), and
  - (iv) if the land is in a prescribed residential zone and is not attached to a wall or roof facing a primary road:
    - (A) the system does not protrude more than 1.5m from any building to which it is attached (as measured from the point of attachment), and
    - (B) the system is installed no less than 1m from any adjoining property boundary if the system protrudes more than 0.5m from any building to which it is attached (as measured from the point of attachment), and
  - (v) the system does not protrude more than 3m from any building to which it is attached (as measured from the point of attachment) if the land is in a land use zone other than a prescribed residential zone.
- (3) For the purposes of subclause (1) (c), a **source sound power level** is a level that is measured at a wind speed of no less than 8 metres per second and in accordance with the International Standard IEC 61400—11 *Noise Measurement*.

### 38 Prohibited development

Development on any land for the purpose of electricity generating works that burn native

forest bio-material (within the meaning of clause 57L of the *Protection of the Environment Operations (General) Regulation 1998*) is prohibited.

### 39 Exempt development

- (1) **Small wind turbine systems** Development for the purpose of a small wind turbine system is exempt development on land in a prescribed rural zone if:
- (a) it complies with clause 20 (other than clause 20 (2) (f)), and
  - (b) the system is ground-mounted, and
  - (c) each small wind turbine has a height of not more than 35m from ground level (existing), and
  - (d) each small wind turbine is installed no less than 200m from any dwelling that is not owned or occupied by the owner of the system, and
  - (e) the development will result in no more than 2 small wind turbines being situated on the lot concerned, and
  - (f) each small wind turbine is located clear of any works, including power lines, of any relevant network operator (within the meaning of the *Electricity Supply Act 1995*) and complies with any requirements of the network operator that relate to clearance from those works, and
  - (g) each small wind turbine does not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 2 kilometres of the proposed development and reported to the Civil Aviation Safety Authority, and
  - (h) the system is installed in accordance with the manufacturer's specifications or by a person who is endorsed for the design and installation of small wind systems under the Clean Energy Council's wind endorsement scheme, and
  - (i) if the land contains a State or local heritage item or is in a heritage conservation area—the system is not visible from any road at the point where the road adjoins the property boundary concerned.
- (1A) **Wind monitoring towers** The installation of a wind monitoring tower used in connection with investigating or determining the feasibility of a small wind turbine system that has a generating capacity of no more than 1 MW is exempt development on any land if:
- (a) it complies with clause 20 (other than clause 20 (2) (f)), and
  - (b) the tower is located clear of any works, including power lines, of any relevant network operator (within the meaning of the *Electricity Supply Act 1995*) and



complies with any requirements of the network operator that relate to clearance from those works, and

- (c) the tower does not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 2 kilometres of the proposed development and reported to the Civil Aviation Safety Authority, and
- (d) the tower is installed in accordance with the manufacturer's specifications or by a person who is endorsed for the design and installation of small wind turbine systems under the Clean Energy Council's wind endorsement scheme, and
- (e) if the land contains a State or local heritage item or is in a heritage conservation area—the tower is not visible from any road at the point where the road adjoins the property boundary concerned, and
- (f) in the case of land in a prescribed residential zone:
  - (i) there is no other wind monitoring tower installed on the lot concerned, and
  - (ii) the height of the tower from ground level (existing) to the topmost point of the tower is no more than 18m, and
  - (iii) the tower is installed no less than 18m from any dwelling that is not owned or occupied by the owner of the tower, and
- (g) in the case of land in a prescribed rural, industrial or special use zone:
  - (i) there are no more than 2 other wind monitoring towers installed on the lot concerned, and
  - (ii) the height of the tower from ground level (existing) to the topmost point of the tower is no more than 35m, and
  - (iii) the tower is installed no less than 35m from any dwelling that is not owned or occupied by the owner of the tower, and
- (h) in the case of land in any land use zone (other than a land use zone referred to in paragraph (f) or (g)):
  - (i) there is no more than one other wind monitoring tower installed on the lot concerned, and
  - (ii) the height of the tower from ground level (existing) to the topmost point of the tower is no more than 26m, and
  - (iii) the tower is installed no less than 26m from any dwelling that is not owned or occupied by the owner of the tower, and

- (i) the tower is demolished within 30 months after the construction or installation is completed.
- (2) Development for the purpose of a wind monitoring tower used in connection with the investigation or determination of the feasibility of a wind farm that has a generating capacity of more than 1 MW is exempt development if:
  - (a) it complies with clause 20, and
  - (b) the tower:
    - (i) is erected in accordance with the manufacturer's specifications, and
    - (ii) has a height of not more than 110m, and
    - (iii) is removed within 30 months after its erection is completed, and
  - (c) the site of the tower:
    - (i) is enclosed by a fence that prevents unauthorised entry to the site, and
    - (ii) is not within 100m of any public road, and
    - (iii) is not within 1km of any other wind monitoring tower or a school, and
    - (iv) is not within 1km of any dwelling except with the prior written permission of the owner of the dwelling, and
    - (v) is not within 500m of any State heritage item, and
    - (vi) does not affect a significant view to or from any such item that is identified in a conservation management plan (as defined by clause 3 of the [Heritage Regulation 2005](#)) for the item, and
  - (d) before the tower is erected, the Civil Aviation Safety Authority (established under the [Civil Aviation Act 1988](#) of the Commonwealth) is notified in writing of:
    - (i) the tower's "as constructed" longitude and latitude co-ordinates, and
    - (ii) the ground level elevation at the base of the tower, referenced to the Australian Height Datum, and
    - (iii) the height from ground level (existing) to the topmost point of the tower (including all attachments), and
    - (iv) the elevation to the top of the tower (including all attachments), referenced to the Australian Height Datum, and
    - (v) the date on which it is proposed to remove the tower.

- (3) **Solar energy systems** Development for the purpose of a solar energy system is exempt development if:
- (a) it complies with clause 20 (other than clause 20 (2) (f)), and
  - (b) in the case of development for the purposes of a photovoltaic electricity generating system—the system is installed in accordance with the manufacturer’s specifications or by a person who is accredited by the Clean Energy Council for the installation of photovoltaic electricity generating systems, and
  - (c) in the case of development for the purpose of any solar energy system other than a photovoltaic electricity generating system—the system is installed in accordance with the manufacturer’s specifications, and
  - (d) the system does not involve mirrors or lenses to reflect or concentrate sunlight, and
  - (e) in the case of a system that is ground-mounted:
    - (i) the system occupies an area of not more than 150m<sup>2</sup>, and
    - (ii) the system has a height of not more than 5m above ground level (existing), and
    - (iii) the system is installed no less than 3m from any adjoining property boundary, and
    - (iv) if the land contains a State or local heritage item or is in a heritage conservation area—the system is not visible from any road at the point where the road adjoins the property boundary concerned, and
    - (v) if the solar energy system is a photovoltaic electricity generating system having the capacity to generate 10kW or more—the system is installed no less than 10m from any dwelling that is not owned or occupied by the owner of the system, and
  - (f) in the case of a system that is not ground-mounted:
    - (i) the development does not reduce the structural integrity of, or involve structural alterations to, any building to which it is attached, and

**Note—**

The term **building** is defined in the [Environmental Planning and Assessment Act 1979](#) as including any structure.

- (ii) if the land is in a prescribed residential zone and is attached to a wall or roof facing a primary road—the system does not protrude more than 0.5m from the wall or roof (as measured from the point of attachment), and

- (iii) if the land is in a prescribed residential zone and is not attached to a wall or roof facing a primary road:
  - (A) the system does not protrude more than 1m from any building to which it is attached (as measured from the point of attachment), and
  - (B) the system is installed no less than 1m from any adjoining property boundary if the system protrudes more than 0.5m from any building to which it is attached (as measured from the point of attachment), and
- (iv) if the land contains a State or local heritage item or is in a heritage conservation area:
  - (A) the system is not attached to any wall or roof of a building facing a primary road, and
  - (B) the system does not protrude more than 0.5m from any building to which it is attached (as measured from the point of attachment), and
- (v) the system does not protrude more than 1.5m from any building or structure to which it is attached (as measured from the point of attachment) if the land is in a land use zone other than a prescribed residential zone, and
- (vi) in the case of development for the purposes of a photovoltaic electricity generating system—the system has the capacity to generate no more than 10kW.

## **Division 5 Electricity transmission or distribution**

### **Subdivision 1 Electricity transmission or distribution networks**

#### **40 Definitions**

In this Division:

**electricity supply authority** means a person or body engaged in the distribution of electricity to the public or in the generation of electricity for supply, directly or indirectly, to the public, whether by statute, franchise agreement or otherwise, and includes:

- (a) an energy services corporation within the meaning of the *Energy Services Corporations Act 1995*, and
- (b) a transmission operator or distribution network service provider (in each case within the meaning of the *Electricity Supply Act 1995*), and
- (c) Rail Corporation New South Wales constituted under the *Transport Administration Act 1988*, and
- (d) the Water Administration Ministerial Corporation constituted under the *Water*

*Management Act 2000.*

**electricity transmission or distribution network** includes the following components:

- (a) above or below ground electricity transmission or distribution lines (and related bridges, cables, conductors, conduits, poles, towers, trenches, tunnels, ventilation and access structures),
- (b) above or below ground electricity kiosks or electricity substations, feeder pillars or transformer housing, substation yards or substation buildings.

**safety risks** means risks of electrocution, fire risks, risks relating to voltage rises or risks to the integrity of an electricity transmission or distribution network.

#### **41 Development permitted without consent**

- (1) Development for the purpose of an electricity transmission or distribution network may be carried out by or on behalf of an electricity supply authority or public authority without consent on any land. However, such development may be carried out without consent on land reserved under the *National Parks and Wildlife Act 1974* only if the development:
  - (a) is authorised by or under that Act, or
  - (b) is, or is the subject of, an existing interest within the meaning of section 39 of that Act, or
  - (c) is carried out on land to which that Act applies over which an easement has been granted and is not contrary to the terms or nature of the easement, or
  - (d) is an electricity work to which section 53 of the *Electricity Supply Act 1995* applies.
- (2) In this clause, a reference to development for the purpose of an electricity transmission or distribution network includes a reference to development for any of the following purposes if the development is in connection with such a network:
  - (a) construction works (whether or not in a heritage conservation area), including:
    - (i) laying and installation of cables and cable pits, co-location of cabling and erection of ventilation and access structures, bridges and tunnel adits, and construction of a tunnel or conduit for an underground cable, and
    - (ii) alteration, demolition or relocation of a local heritage item, and
    - (iii) alteration or relocation of a State heritage item,
  - (b) emergency works, or routine maintenance works, on the site of an existing component of a network or on land that is adjacent to such a site (whether or not

the works are on land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies but, if they are on such land, only if any adverse effect on the land is restricted to the minimum possible to allow the works to be carried out),

- (c) environmental management works,
- (d) establishment of a new substation or an increase in the area of existing substation yards or the installation of equipment, plant or structures in existing substation yards or substation buildings,
- (e) above or below ground co-location of telecommunications cabling and associated structures,
- (f) an electricity generating unit to provide temporary support to the network at a substation or maintenance depot, but only if the combined capacity of all units at the substation or maintenance depot does not exceed 5 megawatts and none of the units is operated, or is intended to be operated, for more than 200 hours in any 12 month period.

#### **42 Notification of electricity substation development**

- (1) This clause applies to development that:
  - (a) is carried out by or on behalf of an electricity supply authority or public authority, and
  - (b) is for the purpose of a new or existing electricity substation of any voltage (including any associated yard, control building or building for housing plant), and
  - (c) is not a project to which Part 3A of the Act applies.
- (2) Before development to which this clause applies is carried out, the electricity supply authority or public authority must:
  - (a) give written notice of the intention to carry out the development to the council for the area in which the land is located (unless the authority is that council) and to the occupiers of adjoining land, and
  - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.

#### **43 Exempt development**

- (1) Development for any of the following purposes is exempt development if the development is in connection with an electricity transmission or distribution network and complies with clause 20:
  - (a) installation of cables in existing conduits if the installation involves no greater soil

- or vegetation disturbance than necessary,
- (b) maintenance, repair, replacement or realignment of poles or of associated support structures for electricity lines that have a capacity of less than 33 kV, if:
    - (i) the primary purpose of the development is not to increase the capacity of the network, and
    - (ii) in the case of replacement, the replacement materials are similar to the materials being replaced or, if timber pole structures are being replaced, they are replaced with similar sized steel or concrete structures,
  - (c) installation, maintenance, repair, replacement or upgrading of above or below ground service lines with a capacity of less than 33 kV that connect premises to the network,
  - (d) installation, maintenance, repair or replacement of the following:
    - (i) existing plant or equipment in an existing fenced area or in an existing building (including pillars with a capacity of less than 33 kV, fuses, control points, switches, regulators and protection equipment, but not including outdoor installation of equipment with a capacity of 33 kV or more),
    - (ii) street lighting if the lighting minimises light spill and artificial sky glow in accordance with AS/NZS 1158:2007, *Lighting for Roads and Public Spaces*,
    - (iii) electricity metering,
    - (iv) electrical conductors on existing structures, if the development will not result in an increase in the capacity of the network,
  - (e) maintenance of existing access tracks in easements or rights of way, or on land subject to section 53 of the [Electricity Supply Act 1995](#), if it is required to facilitate the maintenance or repair of electricity lines,
  - (f) maintenance, repair or replacement of pole substations, if:
    - (i) the development will not result in any increase in the capacity of the network, and
    - (ii) in the case of replacement of materials, the replacement materials are similar to the materials being replaced and the replacement does not involve any structural alterations,
  - (g) demolition and removal of electricity works in accordance with the relevant provisions of AS 2601—2001, *Demolition of structures* (not including works associated with substations containing equipment that has a capacity of 33 kV or more or at sites where soil is likely to be contaminated),

- (h) emergency works to maintain or restore a supply of electricity,
  - (i) construction, maintenance or realignment of security fencing with a height of not more than 3.2m above ground level (existing),
  - (j) investigations (including geotechnical and other testing, surveying and sampling) above or below the surface of the ground, if the investigations:
    - (i) involve no greater soil or vegetation disturbance than necessary, and
    - (ii) do not result in an increase in stormwater drainage or run-off from the sites concerned,
  - (k) vegetation management complying with a tree management plan prepared in accordance with clause 103 of the *Electricity Supply (General) Regulation 2001* or vegetation management that is exempted under clause 21 of the *Native Vegetation Regulation 2005*,
  - (l) environmental management works in an existing fenced area or in an existing building.
- (2) Clause 20 (2) (g) does not apply in relation to development carried out under subclause (1) (k).

## **Subdivision 2 Development likely to affect an electricity transmission or distribution network**

### **44 Excavation—corridors in City of Sydney**

- (1) This clause applies to a development application (or an application for modification of a consent) for development that involves the penetration of ground to a depth of at least 3m below ground level (existing) on land that is within 10m (measured radially) of the centreline of any of the following electricity supply corridors (or parts of such corridors):
- (a) the part of the Picnic Point to Haymarket corridor (as approved by the Minister on 1 February 2002) that runs between Sydney Park and Haymarket,
  - (b) the Haymarket to Surry Hills corridor (as approved by the Minister on 21 December 2001),
  - (c) the City West Cable Tunnel corridor (as approved by the Minister on 21 February 2007).

#### **Note—**

Copies of the Minister's determinations are available on the website of the Department of Planning.

- (2) Before determining an application to which this clause applies, the consent authority



must:

- (a) give written notice of the application to the electricity supply authority for the area in which the development is to be carried out, and
- (b) take into consideration any response to the notice that is received within 21 days after the notice is given, and
- (c) be satisfied that any safety risks associated with the development or modification to which the application relates have been identified, and
- (d) take those risks into consideration.

#### **45 Determination of development applications—other development**

- (1) This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following:
  - (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,
  - (b) development carried out:
    - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or
    - (ii) immediately adjacent to an electricity substation, or
    - (iii) within 5m of an exposed overhead electricity power line,
  - (c) installation of a swimming pool any part of which is:
    - (i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or
    - (ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,
  - (d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.
- (2) Before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must:
  - (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and

- (b) take into consideration any response to the notice that is received within 21 days after the notice is given.

## **Division 6 Emergency services facilities and bush fire hazard reduction**

### **46 Definitions**

In this Division:

***bush fire hazard reduction work*** means:

- (a) the establishment or maintenance of fire breaks on land, and
- (b) the controlled application of appropriate fire regimes or other means for the reduction or modification of available fuels within a predetermined area to mitigate against the spread of a bush fire,

but does not include construction of a track, trail or road.

***Bush Fire Management Committee*** means a Bush Fire Management Committee established under the [Rural Fires Act 1997](#).

***emergency services facility*** means a building or place (including a helipad) used in connection with the provision of emergency services by an emergency services organisation.

***emergency services organisation*** means:

- (a) the Ambulance Service of New South Wales,
- (b) New South Wales Fire Brigades,
- (c) the NSW Rural Fire Service,
- (d) the NSW Police Force,
- (e) the State Emergency Service,
- (f) the New South Wales Volunteer Rescue Association Incorporated,
- (g) the New South Wales Mines Rescue Brigade established under the [Coal Industry Act 2001](#),
- (h) an accredited rescue unit within the meaning of the [State Emergency and Rescue Management Act 1989](#).

***prescribed zone*** means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) RU1 Primary Production,
- (b) RU2 Rural Landscape,
- (c) RU3 Forestry,
- (d) RU4 Rural Small Holdings,
- (e) RU5 Village,
- (e1) B1 Neighbourhood Centre,
- (f) B2 Local Centre,
- (g) B3 Commercial Core,
- (h) B4 Mixed Use,
- (i) B5 Business Development,
- (j) B6 Enterprise Corridor,
- (k) B7 Business Park,
- (k1) B8 Metropolitan Centre,
- (l) IN1 General Industrial,
- (l1) IN 2 Light Industrial,
- (m) IN3 Heavy Industrial,
- (n) IN4 Working Waterfront,
- (o) SP1 Special Activities,
- (p) SP2 Infrastructure,

#### **47 Development permitted with consent**

- (1) Development for the purpose of an emergency services facility may be carried out with consent in a prescribed zone by or on behalf of the NSW Rural Fire Service or an emergency services organisation that is not a public authority.
- (2) Development for the purpose of an emergency services facility may be carried out with consent by or on behalf of the Ambulance Service of New South Wales, New South Wales Fire Brigades or the NSW Rural Fire Service on land in any of the following land use zones or a land use zone that is equivalent to any of those zones:
  - (a) RU6 Transition,

- (b) R1 General Residential,
- (c) R2 Low Density Residential,
- (d) R3 Medium Density Residential,
- (e) R4 High Density Residential,
- (f) R5 Large Lot Residential,
- (g) RE1 Public Recreation,
- (h) E3 Environmental Management,
- (i) E4 Environmental Living.

#### **48 Development permitted without consent**

- (1) Development for the purpose of an emergency services facility may be carried out by or on behalf of a public authority (other than the NSW Rural Fire Service) without consent in a prescribed zone. However, such development may be carried out on land reserved under the *National Parks and Wildlife Act 1974* only if it is authorised by or under that Act.
- (2) Development for any of the following purposes may be carried out by or on behalf of an emergency services organisation without consent on any land:
  - (a) minor alterations of or additions to an existing emergency services facility, such as internal fitouts or works for safety or security purposes,
  - (b) restoration of an emergency services facility due to damage,
  - (c) demolition of an emergency services facility.
- (2A) Before development to which subclause (1) or (2) applies is carried out, the proponent of the development must:
  - (a) give written notice of the intention to carry out the development to the council for the area in which the land is located (unless the proponent is that council) and to the occupiers of adjoining and adjacent land, and
  - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.
- (3) Development for the purpose of bush fire hazard reduction work or the construction of fire trails may be carried out by any person without consent on any land if the development:
  - (a) is not on land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests*

applies, and

- (b) is consistent with a bush fire risk management plan within the meaning of the *Rural Fires Act 1997* that applies to the area or locality in which the development is proposed to be carried out.

**Note—**

The *Rural Fires Act 1997* makes certain bush fire risk management work exempt development.

**48A Exempt development**

- (1) Development for the purpose of maintaining existing fire trails or asset protection zones, or for the purpose of installing or maintaining gates and associated structures on such trails or zones, is exempt development if:
  - (a) the development complies with clause 20, and
  - (b) the development is consistent with the applicable bush fire risk management plan under the *Rural Fires Act 1997*, and
  - (c) in the case where the development is for the purpose of maintaining fire trails or for the purpose of installing or maintaining gates and associated structures on such trails—those trails are recorded as being fire trails on a publicly available Bush Fire Management Committee Fire Trail Register maintained by a Bush Fire Management Committee, and
  - (d) in the case where the development is for the purpose of maintaining an asset protection zone or for the purpose of installing or maintaining gates and associated structures on such a zone—the development is consistent with the NSW Rural Fire Service’s publication *Standards for Asset Protection Zones* published on the website of the NSW Rural Fire Service, and
  - (e) the development does not result in any change in the alignment of fire trails or asset protection zones.
- (2) This clause does not apply to land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies.

**48B Development on land to which SEPP 14 applies**

- (1) This clause applies to land to which *State Environmental Planning Policy No 14—Coastal Wetlands* applies.
- (2) Development for the purpose of bush fire hazard reduction work may be carried out by any person without consent on land to which this clause applies if:
  - (a) the land is within 20 metres of a dwelling house, secondary dwelling, dual occupancy, multi dwelling housing, residential flat building, educational

establishment, hospital, child care centre, attached dwelling, boarding house, group home, hostel, semi-detached dwelling, seniors housing, residential accommodation, residential aged care facility or retirement village within the meaning of the *Retirement Villages Act 1999*, that was in existence immediately before the commencement of this clause, and

- (b) the bush fire hazard reduction work does not involve the use of fire, and
  - (c) the bush fire hazard reduction work is carried out under section 66, 70, 73 or 74E of the *Rural Fires Act 1997*, and
  - (d) the bush fire hazard reduction work is consistent with the standards relating to bush fire hazard reduction set out in the Department's and NSW Rural Fire Service's joint publication *Standards for Bush Fire Hazard Reduction Works in SEPP 14—Coastal Wetlands* published on the website of the Department.
- (3) Development for the purpose of maintaining a fire trail may be carried out by a public authority without consent on land to which this clause applies if:
- (a) the development is consistent with the applicable bush fire risk management plan under the *Rural Fires Act 1997*, and
  - (b) the fire trails are recorded as being fire trails on a publicly available Bush Fire Management Committee Fire Trail Register maintained by a Bush Fire Management Committee, and
  - (c) the development does not involve the use of fire, the widening of a fire trail, any clearing of vegetation (other than of regrowth on a fire trail) or any excavation.

## Division 7 Flood mitigation work

### 49 Definition

In this Division:

**flood mitigation work** has the same meaning as it has in the Standard Instrument.

**Note—**

The Standard Instrument defines **flood mitigation work** as follows:

**flood mitigation work** means work designed and constructed for the express purpose of mitigating flood impacts. It involves changing the characteristics of flood behaviour to alter the level, location, volume, speed or timing of flood waters to mitigate flood impacts. Types of works may include excavation, construction or enlargement of any fill, wall or levee that will alter riverine flood behaviour, local overland flooding, or tidal action so as to mitigate flood impacts.

**Note—**

Examples of flood mitigation work include levees, barrages, causeways, cuttings, embankments, floodgates and detention basins.

## 50 Development permitted without consent

- (1) Development for the purpose of flood mitigation work may be carried out by or on behalf of a public authority without consent on any land.
- (2) A reference in this clause to development for the purpose of flood mitigation work includes a reference to development for any of the following purposes if the development is in connection with flood mitigation work:
  - (a) construction works,
  - (b) routine maintenance works,
  - (c) environmental management works.

## Division 8 Forestry

### Note—

This Division does not apply in relation to forestry to which a forest agreement or integrated forestry operations approval under the [Forestry and National Park Estate Act 1998](#) applies—see section 36 of that Act. See also the [Native Vegetation Act 2003](#) in relation to the clearing of native vegetation.

## 51 Definition

In this Division:

**forestry** has the same meaning as it has in the Standard Instrument.

### Note—

The Standard Instrument defines **forestry** (by reference to the [Forestry and National Park Estate Act 1998](#)) to mean:

- (a) logging operations, namely, the cutting and removal of timber from land for the purpose of timber production, or
- (b) forest products operations, namely, the harvesting of products of trees, shrubs and other vegetation (other than timber) that are of economic value, or
- (c) on-going forest management operations, namely, activities relating to the management of land for timber production such as thinning, bush fire hazard reduction, bee-keeping, grazing and other silvicultural activities, or
- (d) ancillary road construction, namely, the provision of roads and fire trails, and the maintenance of existing railways, to enable or assist in the above operations.

## 52 Development permitted without consent

- (1) Development for the purpose of forestry may be carried out by or on behalf of a public authority without consent on land in Zone RU3 Forestry or an equivalent land use zone.
- (2) A reference in this clause to development for the purpose of forestry includes a

reference to development for any of the following purposes:

- (a) operation of portable timber mills,
- (b) harvesting of products of cultural value from trees, shrubs and other vegetation,
- (c) forest management activities relating to matters such as Aboriginal cultural heritage, forestry research and forest conservation,
- (d) environmental management works (such as weed and pest control),
- (e) facilities and works associated with forestry (such as landscaping, recycled water and biosolids reuse schemes, maintenance depots and bushfire lookouts),
- (f) outdoor recreational facilities and related amenities for visitors to forests (such as viewing platforms, toilet facilities and garbage collection areas),
- (g) construction and maintenance of roads, tracks and fire trails to enable or assist anything mentioned in paragraphs (a)–(f).

## **Division 9 Gas transmission or distribution and pipelines**

### **Subdivision 1 Pipelines**

#### **53 Development permitted without consent**

- (1) Development for the purpose of a pipeline may be carried out by any person without consent on any land if the pipeline is subject to a licence under the *Pipelines Act 1967* or a licence or authorisation under the *Gas Supply Act 1996*.
- (2) Development for the purpose of a gas pipeline may be carried out by or on behalf of a public authority without consent on any land.
- (3) However, subclauses (1) and (2) apply with respect to land in Zone E1 National Parks and Nature Reserves or an equivalent land use zone only if the development:
  - (a) is authorised by or under the *National Parks and Wildlife Act 1974*, or
  - (b) is, or is the subject of, an existing interest within the meaning of section 39 of that Act, or
  - (c) is carried out on land to which that Act applies over which an easement has been granted and is not contrary to the terms or nature of the easement.
- (4) In this clause, a reference to development for the purpose of a pipeline includes a reference to development for any of the following purposes if the development is in connection with a pipeline:
  - (a) construction works,



- (b) emergency works or routine maintenance works.

#### **54 Exempt development**

- (1) Development for any of the following purposes is exempt development if the development is in connection with a pipeline that is the subject of a licence or authorisation under the *Gas Supply Act 1996* and complies with clause 20:
  - (a) installation, maintenance, repair or replacement of:
    - (i) gas metering at gas customers' premises, or
    - (ii) gas customer service lines connecting customers' premises to a gas distribution network,
  - (b) maintenance or emergency works or routine maintenance to protect the pipeline, the environment or the public, if the works involve no greater soil or vegetation disturbance than necessary.
- (2) Development for any of the following purposes is exempt development if the development is in connection with a gas pipeline that is the subject of a licence under the *Pipelines Act 1967* and complies with clause 20:
  - (a) maintenance or emergency works to protect the pipeline, the environment or the public, if the works involve no greater soil or vegetation disturbance than necessary,
  - (b) installation, maintenance, repair, realignment or replacement of security fencing with a height of not more than 3.2m above ground level (existing),
  - (c) installation, maintenance, repair or replacement of:
    - (i) pipeline markers, if they involve no greater soil or vegetation disturbance than necessary, or
    - (ii) temporary fencing around work sites or open excavations, or,
    - (iii) temporary structures associated with site compounds for construction or maintenance projects (such as demountable buildings) but only if any temporary building is not more than one storey high, or
    - (iv) cathodic protection systems, or
    - (v) controls over access to gas control facilities or to associated roads and facilities,
  - (d) maintenance or repair of:
    - (i) existing access tracks or gates along pipeline corridors, if the maintenance or repair involves no greater soil or vegetation disturbance than necessary, or

- (ii) gas control facilities (including painting, servicing or replacement of existing equipment and repairs or minor alterations to enclosures or buildings),
- (e) excavations to expose pipelines for inspection or testing, and the creation of temporary stockpiles associated with pipeline maintenance or repair, if:
  - (i) measures to control stockpile erosion or movement of sediment from the stockpiles are in place, and
  - (ii) there is no greater soil or vegetation disturbance than necessary.

## **Subdivision 2 Development in gas pipeline corridors**

### **55 Development adjacent to corridor**

- (1) Before determining an application (or any application for modification of a consent) for development adjacent to a gas pipeline corridor, the consent authority must:
  - (a) be satisfied that the potential safety risks or risks to the integrity of the pipeline that are associated with the development or modification to which the application relates have been identified, and
  - (b) take those risks into consideration.
- (2) In this clause, **gas pipeline corridor** means any land:
  - (a) within the licence area of a gas pipeline licensed under the [Pipelines Act 1967](#), or
  - (b) within 20m (measured radially) of the centreline of any of the following gas pipelines:
    - (i) Central West Pipeline System and Central Ranges Pipeline System,
    - (ii) Eastern Gas Pipeline,
    - (iii) Moomba to Sydney Pipeline System,
    - (iv) Wilton to Newcastle Pipeline,
    - (v) Wilton to Wollongong Pipeline,
    - (vi) Culcairn to Victoria Interconnect Pipeline,
    - (vii) Hoskinstown to Australian Capital Territory Pipeline.

## **Division 10 Health services facilities**

### **56 Definitions**

In this Division:

**health services facility** means a facility used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes the following:

- (a) day surgeries and medical centres,
- (b) community health service facilities,
- (c) health consulting rooms,
- (d) facilities for the transport of patients, including helipads and ambulance facilities,
- (e) hospitals.

**prescribed zone** means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) RU4 Rural Small Holdings,
- (b) RU5 Village,
- (c) RU6 Transition,
- (d) R1 General Residential,
- (e) R3 Medium Density Residential,
- (f) R4 High Density Residential,
- (g) R5 Large Lot Residential,
- (h) B2 Local Centre,
- (i) B3 Commercial Core,
- (j) B4 Mixed Use,
- (k) B5 Business Development,
- (l) B6 Enterprise Corridor,
- (m) B7 Business Park,
- (m1) B8 Metropolitan Centre,
- (n) SP1 Special Activities,
- (o) SP2 Infrastructure.

### **57 Development permitted with consent**

- (1) Development for the purpose of health services facilities may be carried out by any person with consent on land in a prescribed zone.
- (2) Development for any of the following purposes may be carried out by or on behalf of a public authority with consent on State land that is in a land use zone identified by another environmental planning instrument as a “special use” zone for a health services facility:
  - (a) biotechnology research or development industries,
  - (b) business premises or retail facilities to cater for patients, staff or visitors,
  - (c) multi dwelling housing.
- (3) Consent must not be granted for development of a kind referred to in subclause (2) unless the consent authority is satisfied that the Director-General has certified in a site compatibility certificate that, in the Director-General’s opinion, the development is compatible with the surrounding land uses.
- (4) Nothing in this clause:
  - (a) prevents a consent authority from:
    - (i) granting consent for development on a site by reference to site and design features that are more stringent than those identified in a site compatibility certificate for the same site, or
    - (ii) refusing to grant consent for development by reference to the consent authority’s own assessment of the compatibility of the development with the surrounding land uses, or
  - (b) otherwise limits the matters to which a consent authority may have regard in determining a development application for development of a kind referred to in subclause (2).

### **58 Development permitted without consent**

- (1) Development for any of the following purposes may be carried out by or on behalf of a public authority without consent on land in a prescribed zone:
  - (a) minor alterations of, or additions to an existing hospital, including internal fitouts or provision of access for persons with a disability,
  - (b) restoration or replacement of accommodation, administration or other facilities within an existing hospital,
  - (c) demolition of buildings if the development is in connection with a health services

facility.

(2) Development of a kind referred to in subclause (1) may only be carried out without consent under that subclause if the development will not allow for an increase in:

- (a) the number of patients accommodated at the facility, or
- (b) the number of staff employed at the facility,

that is greater than 10 per cent (compared with the average of each of those numbers for the 12 month period immediately prior to the commencement of the development).

## **Division 11**

### **58A-63F (Repealed)**

## **Division 12 Parks and other public reserves**

### **64 Definition**

In this Division:

**public reserve** has the same meaning as it has in the [Local Government Act 1993](#), but does not include a Crown reserve that is dedicated or reserved for a public cemetery.

### **65 Development permitted without consent**

(1) Development for any purpose may be carried out without consent:

- (a) on land reserved under the [National Parks and Wildlife Act 1974](#), if the development is for a use authorised under that Act, or
- (b) on land declared under the [Marine Parks Act 1997](#) to be a marine park if the development is for a use authorised under that Act, or
- (c) on land declared under the [Fisheries Management Act 1994](#) to be an aquatic reserve if the development is for a use authorised under that Act.

(2) Development for any purpose may be carried out without consent:

- (a) on Trust lands within the meaning of the [Centennial Park and Moore Park Trust Act 1983](#), by or on behalf of the Centennial Park and Moore Park Trust, or
- (b) on trust lands within the meaning of the [Parramatta Park Trust Act 2001](#), by or on behalf of the Parramatta Park Trust, or
- (c) (Repealed)
- (d) in the case of land that is a reserve within the meaning of Part 5 of the [Crown](#)

*Lands Act 1989*, by or on behalf of the Director-General of the Department of Lands, a trustee of the reserve or (if appointed under that Act to manage the reserve) the Ministerial Corporation constituted under that Act or an administrator,

if the development is for the purposes of implementing a plan of management adopted for the land under the Act referred to above in relation to the land.

- (3) Development for any of the following purposes may be carried out by or on behalf of a council without consent on a public reserve under the control of or vested in the council:
- (a) roads, cycleways, single storey 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.

## **66 Exempt development**

- (1) Development for any of the following purposes is exempt development if it is carried out by or on behalf of a public authority in connection with a public reserve or on land referred to in clause 65 (1), and if it complies with clause 20:
- (a) construction, maintenance and repair of:
    - (i) walking tracks, boardwalks and raised walking paths, ramps, minor pedestrian bridges, stairways, gates, seats, barbecues, shelters and shade structures,
    - (ii) viewing platforms with an area not exceeding 100m<sup>2</sup>, or
    - (iii) sporting facilities, including goal posts, sight screens and fences, if the visual impact of the development on surrounding land uses is minimal, or
    - (iv) play equipment where adequate safety provisions (including soft landing surfaces) are provided, but only if any structure is at least 1.2m away from any

fence,

(b) routine maintenance (including earthworks associated with playing field regrading or landscaping and maintenance of existing access roads).

(2) Development of a kind referred to in subclause (1) is exempt development if it is carried out on land referred to in clause 65 (2) by or on behalf of the person specified in respect of that land in that subclause, if the development:

(a) complies with clause 20, and

(b) involves no greater disturbance of native vegetation than necessary, and

(c) does not result in an increase in stormwater run-off or erosion, and

(d) for the purposes of implementing a plan of management adopted for the land under the Act referred to in clause 65 (2) in relation to the land.

## **Division 13 Port, wharf or boating facilities**

### **67 Definitions**

In this Division:

**facilities** includes:

(a) facilities for the embarkation or disembarkation of passengers onto or from any vessels, including public ferry wharves, and

(b) facilities for the loading or unloading of freight onto or from vessels and associated receipt, land transport and storage facilities, and

(c) wharves for commercial fishing operations, and

(d) refuelling, launching, berthing, mooring, storage or maintenance facilities for any vessel, and

(e) sea walls or training walls, and

(f) administration buildings, communication, security and power supply facilities, roads, rail lines, pipelines, fencing, lighting or car parks.

**freight** includes livestock, containers, liquids, materials, plant and equipment, vehicles and vessels.

**navigation and emergency response facilities** means facilities for:

(a) water traffic control, safe navigation and other safety purposes (such as beacons, navigation towers, radar towers, communication facilities, vessel monitoring facilities, lighthouses, buoys, marine markers, pilot stations, jetties, breakwaters or training

walls), and

- (b) emergency response, including rescue stations and emergency communication facilities and jetties.

**Port Botany area** means the area shown in Figure 2 of *City of Botany Bay Development Control Plan for Exempt and Complying Development* (as adopted by the Council of the City of Botany in March 2005).

**Port Botany guidelines** means the *Exempt and Complying Development Guidelines for Port Botany* (Sydney Ports Corporation, December 2005).

**Port Corporation** means a Port Corporation established under the [Ports and Maritime Administration Act 1995](#).

**port facilities** means facilities at, or on land in the vicinity of, a designated port (within the meaning of section 47 of the [Ports and Maritime Administration Act 1995](#)) used in connection with the carrying of freight and persons by water from one port to another for business or commercial purposes.

**prescribed zone** means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) B4 Mixed Use,
- (a1) B8 Metropolitan Centre,
- (b) IN1 General Industrial,
- (c) IN3 Heavy Industrial,
- (d) IN4 Working Waterfront,
- (e) SP1 Special Activities,
- (f) SP2 Infrastructure,
- (g) SP3 Tourist,
- (h) RE1 Public Recreation,
- (i) W2 Recreational Waterways,
- (j) W3 Working Waterways,

and includes any waterbody that is unzoned under any environmental planning instrument.

**public ferry wharf** means a wharf or any associated facilities used for the purposes of public passenger services provided by ferries.



**wharf or boating facilities** means a wharf, or facilities associated with a wharf or boating, that are not port facilities.

#### **67A Application of Division**

This Division does not apply to development on land to which [State Environmental Planning Policy \(Port Botany and Port Kembla\) 2013](#) applies.

#### **68 Development permitted without consent**

- (1) Development for the purpose of port facilities may be carried out:
  - (a) by or on behalf of a Port Corporation or the Maritime Authority of NSW without consent on land in a prescribed zone or on any other land, providing the development is directly related to an existing port facility, and
  - (b) by or on behalf of any other public authority without consent on land in a prescribed zone.
- (2) Development for any of the following purposes may be carried out by or on behalf of a public authority without consent on any land or on unzoned land:
  - (a) navigation and emergency response facilities,
  - (b) environmental management works associated with a port, wharf or boating facility.
- (3) Subdivision of land in the area of a port managed by a Port Corporation, being a subdivision that is required to facilitate operations at the port, may be carried out by a Port Corporation without consent.
- (4) Development for the purpose of wharf or boating facilities may be carried out by or on behalf of a public authority without consent on any land. However, such development may be carried out on land reserved under the [National Parks and Wildlife Act 1974](#) only if the development is authorised by or under that Act.
- (4AA) To avoid doubt, subclause (4) does not permit the subdivision of any land.
- (4A) Development for the purposes of associated public transport facilities for a public ferry wharf may be carried out by or on behalf of a public authority without consent on any land. However, such development may be carried out on land reserved under the [National Parks and Wildlife Act 1974](#) only if the development is authorised by or under that Act.
- (5) In this clause, a reference to development for the purpose of port facilities, navigation facilities, wharf or boating facilities or associated public transport facilities for a public ferry wharf includes a reference to the operation of such a facility and to development for any of the following purposes if the development is in connection with such

facilities:

- (a) construction works (including dredging and land reclamation, if it is required for the construction of facilities),
- (b) routine maintenance works (including dredging, or bed profile levelling, of existing navigation channels if it is for safety reasons or in connection with existing facilities),
- (c) environmental management works,
- (d) alteration, demolition or relocation of a local heritage item,
- (e) alteration or relocation of a State heritage item.

### **69 Development permitted with consent**

- (1) Development on land within a port facility or within a public ferry wharf, being development:
  - (a) for the purposes of the erection, reconstruction, alteration or use of a structure associated with retail premises, business premises or industrial premises that are not directly related to the operation of the port, and
  - (b) that is not development of a kind referred to in clause 68,may be carried out by any person with consent on land in a prescribed zone or on unzoned land.
- (2) Subdivision of any land in the area of a port managed by a Port Corporation (other than subdivision referred to in clause 68) may be carried out by any person with consent.
- (3) Development for the purpose of dredging (other than dredging referred to in clause 68) may be carried out by any person with consent on any land.

### **70 Exempt development**

Development for any of the following purposes is exempt development if it is lawfully carried out on land at a port facility at a designated port managed by a Port Corporation or the Maritime Authority of NSW and complies with clause 20:

- (a) awnings or canopies,
- (b) adjustment of boundaries between lots or consolidation of lots, if it will not result in:
  - (i) a change in the area of any lot by more than 10 per cent, or
  - (ii) the creation of an additional lot or of a legal right to erect a building on a lot, or

- (iii) a reduction in vehicular access to any lot, in loading and unloading areas on any lot or in areas used for car parks, or
  - (iv) a breach of any requirements under an environmental planning instrument relating to a minimum area of open space or of landscaping, or
  - (v) a lot that depends on the use of the services provided to, or utilities of, another lot,
- (c) building alterations, including:
- (i) non-structural alterations to the exteriors of buildings (such as painting, plastering, cement rendering, cladding, attaching fittings and decorative work), and
  - (ii) interior alterations to buildings that do not affect the load bearing capacity of any load bearing component of a building, and
  - (iii) any work involving the removal of asbestos, asbestos cement or lead paint, if the removal complies with the WorkCover Authority's *Your guide to working with asbestos: Safety guidelines and requirements for work involving asbestos* (March 2003),
- (d) demolition of any shed, kiosk, garage, roof structure, ceiling, partition, stairs, ducts, internal walls, fencing, flagpole or advertising structure, or of any building the erection of which is exempt development under this Policy, if:
- (i) it is not a State or local heritage item or part of such an item or in a heritage conservation area, and
  - (ii) in the case of a shed, kiosk or garage, it has a gross floor area not exceeding 500m<sup>2</sup>, and
  - (iii) the demolition is carried out in accordance with AS 2601—2001, *Demolition of structures*,
- (e) emergency services equipment (including replacement or augmentation of fire systems, pumphouses, fire water tanks and other essential fire safety facilities),
- (f) a flagpole that:
- (i) has a height above ground level (existing) of not more than 30m, and
  - (ii) is not located within 20m of any boundary of a property that is used for residential purposes, and
  - (iii) does not display any commercial advertisements for or about any party other than the occupier of the Port Corporation or a lessor of the site from the Port Corporation,

- (g) hail netting that:
  - (i) has a height above ground level (existing) of not more than 12m, and
  - (ii) is dark in colour,
- (h) landscaping, paving or a car park that:
  - (i) is ancillary or incidental to a lawful use of the land on which it is carried out or located, and
  - (ii) is designed so that any surface water run-off is directed to the stormwater management system, and
  - (iii) in the case of landscaping on land in the Port Botany area, complies with the Port Botany guidelines,
- (i) marking out of internal private roads that are not connected to a public road,
- (j) structures for external lighting with a height above ground level (existing) of not more than 35m,
- (k) pedestrian ramps, pathways and non-mechanical stairways,
- (l) pollution control facilities, occupational health and safety measures and environmental management works (including such facilities and works associated with liquid petroleum gas storage containers or fuel storage tanks) that satisfy any applicable pollution control provisions and guidelines and are not inconsistent with, or in contravention of, an existing development consent or undertaken for the purpose of remediating contaminated land,
- (m) retaining walls (not including sea walls) that:
  - (i) provide for the retaining of fill to a height above ground level (existing) of not more than 2m and excavation to a depth below ground level (existing) of not more than 1m, and
  - (ii) are constructed so as to not impede the natural flow of stormwater or surface water run-off,
- (n) scaffolding that:
  - (i) complies with AS/NZS 1576.1:1995, *Scaffolding—General Requirements*, and
  - (ii) is removed as soon as is practicable without compromising public health or safety,
- (o) security fencing or security boom gate (whether or not installed along a road frontage) that has a height (in the case of a security fence) of not more than 3.5m,
- (p) security cameras,

- (q) directional or safety signs that:
  - (i) comply with AS 1319—1994, *Safety signs for the occupational environment* and AS 4282—1997, *Control of the obtrusive effects of outdoor lighting*, and
  - (ii) in the case of signs on land in the Port Botany area, comply with the Port Botany guidelines,
- (r) public notices that:
  - (i) are displayed by a public authority, and
  - (ii) contain only warning, safety, security or instructive information (whether or not conveyed by a graphic), and
  - (iii) in the case of notices on land in the Port Botany area, comply with the Port Botany guidelines,
- (s) business identification signs that:
  - (i) are flush to or painted on a wall, and
  - (ii) have an area of not more than 25m<sup>2</sup>, and
  - (iii) are not more than 10m wide or long, and
  - (iv) if flush to a wall, do not project more than 0.3m out from the wall and do not extend vertically above or laterally beyond the wall, and
  - (v) are not illuminated, and
  - (vi) relate to the business carried out on the land,
- (t) a change in the display on an existing sign that does not involve a change in the area, form or shape of the sign,
- (u) a temporary structure if:
  - (i) the structure is used for a period totalling not more than 12 months, and
  - (ii) any car parks and directional or safety signage associated with the use of the structure is located on the same site as the structure, and
  - (iii) any waste associated with use of the structure is disposed of lawfully,
- (v) utilities and service facilities that have a height of not more than 3m above ground level (existing), including pipelines (but not including pipelines for fuel or hazardous materials or pipelines that are the subject of a licence under the [Pipelines Act 1967](#) or above ground or overhead power facilities).

## 71 Complying development

- (1) Development for any of the following purposes is complying development if it is lawfully carried out on land in the area of a port managed by a port corporation and complies with clause 20B:
- (a) addition to or alteration of a building (being office premises or a shed, garage or kiosk) that does not result in:
    - (i) the gross floor area of the building being the lesser of 25 per cent or 500m<sup>2</sup> greater than it was immediately before the commencement of this Policy, or
    - (ii) the building having a height (including the addition or alteration) of more than 12m above ground level (existing),
  - (b) a new canteen, kiosk or amenity facility:
    - (i) that has a gross floor area of not more than 500m<sup>2</sup>, and
    - (ii) that has a height of not more than 12m above ground level (existing), and
    - (iii) in which all food preparation areas comply with the *National Code for the Construction and Fitout of Food Premises* (Australian Institute of Environmental Health, 1993),
  - (c) demolition, carried out in accordance with AS 2601—2001 *Demolition of structures*, of sheds, garages or kiosks (with a gross floor area of not more than 2,000m<sup>2</sup>, in each case), roof structures, ceilings, stairs, ducts, internal walls, fencing or flagpoles, or of any building the erection of which is exempt or complying development under this Policy,
  - (d) fences or gates (including security boom gates) that:
    - (i) have a height (when closed, in the case of boom gates) of not more than 5m above ground level (existing), and
    - (ii) in the case of fences or gates on land in the Port Botany area, comply with the Port Botany guidelines,
  - (e) buildings (including switch rooms or security booths) or sheds that:
    - (i) have a floor space area of not more than 500m<sup>2</sup>, and
    - (ii) are one storey high and have a height above ground level (existing) of not more than 10m, and
    - (iii) are not within 10m of any boundary,
  - (f) retaining walls (other than seawalls) that:

- (i) have a height of not more than 3m above ground level (existing), and
- (ii) if they have a height of more than 1m, are certified by a structural engineer as having a satisfactory design and structure and as having been constructed in accordance with the specifications of that design, and
- (iii) comply with:
  - (A) AS 3700—2011, *Masonry structures* and AS 3700 Supp 1—2004, *Masonry structures—Commentary (Supplement to AS 3700—2001)*, and
  - (B) AS/NZS 1170.1:2002, *Structural design actions Part 1: Permanent, imposed and other actions* and AS/NZS 1170.1 Supp1:2002, *Structural design actions—Permanent, imposed and other actions—Commentary (Supplement to AS/NZS 1170.1:2002)*, and
  - (C) if the structure is made of timber, AS 1720:1—1997/Amdt 1—1998, *Timber structures (known as the SAA Timber Structures Code)—Design methods*,
- (g) removal of existing cranes, replacement of existing cranes with smaller cranes or with cranes of the same capacity, or installation of crane rails for an existing crane, if:
  - (i) the development is not inconsistent with or in contravention of an existing consent, and
  - (ii) in the case of the replacement of cranes or installation of crane rails, the new cranes or crane rails are certified by a structural engineer as having a satisfactory design and as having been erected or installed in accordance with the specifications of that design,
- (h) liquid petroleum gas storage containers that:
  - (i) together have a capacity to store, at any one time, a total of not more than 3 tonnes of gas for each business, and
  - (ii) comply with all relevant requirements of the *Australian Dangerous Goods Code* prepared by the National Transport Commission, as in force on the commencement of this Policy,
- (i) fuel storage tanks that:
  - (i) together have a capacity to store, at any one time, a total of not more than 50,000 litres of fuel for each business, and
  - (ii) comply with all relevant requirements of the *Australian Dangerous Goods Code* prepared by the National Transport Commission, as in force on the commencement of this Policy,

- (j) fire water tanks that together have a capacity to store, at any one time, a total of not more than 1,500 tonnes of water for each business,
  - (k) rainwater, grey water or bilge water tanks that together have a capacity to store a total of not more than 20,000 tonnes of water for each business,
  - (l) new or replacement paving, if the area being paved is not more than 5,000m<sup>2</sup> and the development is not inconsistent with or in contravention of an existing consent,
  - (m) satellite dishes or telecommunications facilities, if:
    - (i) the development will result in there being not more than one dish or one facility on the site at any one time, and
    - (ii) the dish or facility is made of non-reflective materials, has a height of not more than 12m above ground level (existing) and a diameter of not more than 3m,
- (2), (3) (Repealed)

## **72 Complying development conditions—additional conditions**

A complying development certificate for development referred to in clause 71 is subject to the following conditions (in addition to the conditions set out in clause 20C):

- (a), (b) (Repealed)
- (c) at the following stages, the principal certifying authority must be given the following survey certificates prepared by a registered land surveyor:
  - (i) before any form work below the ground floor slab is completed or (if there is no such form work) before the concrete is poured for the ground floor slab—a survey certificate showing the location of the structure relative to the boundaries,
  - (ii) at the completion of the lowest floor—a survey certificate confirming that levels are in accordance with the complying development certificate (with the levels relating to data on the certificate),
- (d)–(f) (Repealed)
- (g) to control dust emissions from the site, suitable screens or barricades must be erected prior to any demolition, excavation or building work,
- (h) if lead dust, asbestos or other contaminants are present on the site, appropriate measures to minimise associated hazards must be implemented,
- (i) following removal of any friable asbestos from the site, a certificate from a suitably qualified person must be provided to the principal certifying authority certifying that



no such asbestos remains on site and a copy of the certificate must be forwarded to the relevant Port Corporation, the Department of Planning and the council before any other work begins.

### **73 (Repealed)**

## **Division 14 Public administration buildings and buildings of the Crown**

### **74 Definitions**

In this Division:

**prescribed zone** means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) B3 Commercial Core,
- (b) B4 Mixed Use,
- (c) B5 Business Development,
- (d) B6 Enterprise Corridor,
- (e) B7 Business Park,
- (e1) B8 Metropolitan Centre,
- (f) SP1 Special Activities,
- (g) SP2 Infrastructure.

**public administration building** has the same meaning as it has in the Standard Instrument.

**Note—**

The Standard Instrument defines **public administration building** as follows:

**public administration building** means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes, and includes a courthouse or a police station.

### **75 Existing buildings of the Crown**

This Policy does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

### **76 Development permitted with consent**

- (1) Development for the purpose of public administration buildings may be carried out by or on behalf of a public authority with consent on land in a prescribed zone.
- (2) Development for the purpose of public administration buildings that are ancillary to

and located on the same land as another infrastructure facility may be carried out by or on behalf of a public authority with consent if:

- (a) the development application for the public administration building is determined at the same time as the development application for the infrastructure facility, and development for the public administration building is to be carried out at the same time as development for the infrastructure facility, or
- (b) development for the purposes of the public administration building is to be carried out on land on which an existing infrastructure facility is located.

## **77 Development permitted without consent**

- (1) Development for any of the following purposes may be carried out by or on behalf of a public authority without consent:
  - (a) minor alterations of or additions to a public administration building such as internal fitouts, provision of access for persons with a disability, or for safety or security purposes,
  - (b) restoration of a damaged public administration building,
  - (c) demolition of a public administration building.
- (2) Development for the purpose of a public administration building that is ancillary to and located on the same land as an infrastructure facility may be carried out by or on behalf of a public authority without consent if:
  - (a) development for the purpose of the infrastructure facility may be carried out without consent on that land, and
  - (b) the approval of the activity (within the meaning of Part 5 of the Act) includes an approval for the public administration building, and development for the public administration building is to be carried out at the same time as development for the infrastructure facility.

## **Division 15 Railways**

### **Subdivision 1 Railways and rail infrastructure facilities**

#### **78 Definitions**

- (1) In this Division:

**ARTC** means Australian Rail Track Corporation Ltd (ACN 081 455 754).

**ARTC arrangement** means a lease, licence agreement or other arrangement under Part 8A of the [Transport Administration Act 1988](#).

**freight** includes livestock, containers, liquids, materials, plant and equipment, vehicles and vessels.

**Interim Metro Corridor** means land shown on a rail corridors map as:

- (a) CBD Metro (Zone A—Above Ground Including Cut & Cover Tunnel), or
- (b) CBD Metro (Zone B—Tunnel), or
- (c) CBD Metro Station Extent.

**interim rail corridor** means the Interim Metro Corridor or the Interim Rail Link Corridor.

**Interim Rail Link Corridor** means land shown on a rail corridors map as:

- (a) CBD Rail Link (Zone B—Tunnel), or
- (b) South West Rail Link (Zone A—Above Ground Including Cut & Cover Tunnel), or
- (c) South West Rail Link (Zone B—Tunnel).

**major development** has the same meaning it has in Part 4 of the [City of Sydney Act 1988](#).

**prescribed zone** means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) IN1 General Industrial,
- (b) IN2 Light Industrial,
- (c) IN3 Heavy Industrial,
- (d) SP1 Special Activities,
- (e) SP2 Infrastructure.

**rail authority for an interim rail corridor** means:

- (a) in relation to the Interim Metro Corridor—Sydney Metro, and
- (b) in relation to the Interim Rail Link Corridor—RailCorp.

**rail authority for the rail corridor** means:

- (a) in relation to a rail corridor that is owned by ARTC or is the subject of an ARTC arrangement—ARTC, and
- (a1) in relation to a rail corridor that is owned, leased, managed or controlled by Sydney Metro—Sydney Metro, and

- (b) in relation to any other rail corridor—RailCorp.

**rail corridor** means land:

- (a) that is owned, leased, managed or controlled by a public authority for the purpose of a railway or rail infrastructure facilities, or
- (b) that is zoned under an environmental planning instrument predominantly or solely for development for the purpose of a railway or rail infrastructure facilities, or
- (c) in respect of which the Minister has granted approval under Part 3A or Part 5.1 or (before its repeal) Division 4 of Part 5 of the Act, or consent under Part 4 of the Act, for the carrying out of development (or for a concept plan for a project comprising or including development) for the purpose of a railway or rail infrastructure facilities.

**Note—**

Copies of the Minister's approvals are available on the website of the Department of Planning.

**rail corridors map** means the maps marked as follows and held in the head office of the Department of Planning:

- (a) *State Environmental Planning Policy (Infrastructure) 2007—Interim Rail Corridor—CBD Rail Link & CBD Metro,*
- (b) *State Environmental Planning Policy (Infrastructure) 2007—Interim Rail Corridor—South West Rail Link.*

**rail infrastructure facilities** include:

- (a) railway tracks, associated track structures, cuttings, drainage systems, fences, tunnels, ventilation shafts, emergency accessways, bridges, embankments, level crossings and roads, pedestrian and cycleway facilities, and
- (b) signalling, train control, communication and security systems, and
- (c) power supply (including overhead power supply) systems, and
- (d) railway stations, station platforms and areas in a station complex that commuters use to get access to the platforms, and
- (e) public amenities for commuters, and
- (f) associated public transport facilities for railway stations, and
- (g) maintenance, repair and stabling facilities for rolling stock, and
- (h) refuelling depots, garages, maintenance facilities and storage facilities that are for the purposes of a railway, and

- (i) railway workers' facilities, and
- (j) rail freight terminals, sidings and freight intermodal facilities,

but do not include buildings or works that are for residential, retail or business purposes and unrelated to railway purposes.

**RailCorp** means Rail Corporation New South Wales constituted under the *Transport Administration Act 1988*.

**Sydney Metro** means Sydney Metro constituted under the *Transport Administration Act 1988*.

- (2) A reference in this Division to rail infrastructure facilities includes a reference to any facilities, buildings, works or infrastructure related to light rail purposes.

### **79 Development permitted without consent—rail infrastructure facilities generally**

- (1) Development for the purpose of a railway or rail infrastructure facilities may be carried out by or on behalf of a public authority without consent on any land. However, such development may be carried out without consent on land reserved under the *National Parks and Wildlife Act 1974* only if the development:
  - (a) is authorised by or under that Act, or
  - (b) is, or is the subject of, an existing interest within the meaning of section 39 of that Act, or
  - (c) is on land to which that Act applies over which an easement has been granted and is not contrary to the terms or nature of the easement.
- (2) In this clause, a reference to development for the purpose of a railway or rail infrastructure facilities includes a reference to operation of a railway and to development for any of the following purposes if the development is in connection with a railway or rail infrastructure facilities:
  - (a) construction works (whether or not in a heritage conservation area), including:
    - (i) temporary crushing plants or concrete batching plants, if they are used solely in connection with railway construction and in or adjacent to a rail corridor, and
    - (ii) track support earthworks, and
    - (iii) alteration, demolition or relocation of a local heritage item, and
    - (iv) alteration or relocation of a State heritage item, and
    - (v) temporary buildings, or facilities for the management of railway construction,

that are in or adjacent to a rail corridor,

- (b) emergency works, or routine maintenance works, carried out in the rail corridor of an existing railway or on land that is adjacent to such a corridor (including on land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies but, if they are on such land, only if any adverse effect on the land is restricted to the minimum possible to allow the works to be carried out),
- (c) maintenance or repair of an existing rail infrastructure facility,
- (d) environmental management works.

### **80 Development permitted without consent—particular rail infrastructure facilities**

Development for the purpose of any of the following railways or railway projects as described in Schedule 2 may be carried out by or on behalf of a public authority without consent on any land:

- (a) the Sydney Airport Rail Link,
- (b) the Parramatta Rail Link,
- (c) the Southern Sydney Freight Line,
- (d) the Rail Clearways Program.

### **81 Development permitted with consent**

Development for any of the following purposes, being development that is not development of a kind referred to in clause 79, may be carried out by any person with consent on land in a prescribed zone:

- (a) rail freight terminals, rail freight sidings or rail freight intermodal facilities,
- (b) residential, retail or business premises in a rail corridor if the development is wholly or partly above a railway station,
- (c) retail or business premises in a railway station complex, including areas in the complex that commuters use to gain access to station platforms,
- (d) car parks that are intended to be used by commuters but that are not owned, leased, managed or controlled by a public authority,
- (e) bus interchanges that are integrated or associated with railway stations but that are not owned, leased, managed or controlled by a public authority.

### **82 Exempt development**

Development for any of the following purposes is exempt development if it is carried out

by or on behalf of a public authority, is in connection with a railway or rail infrastructure facilities and complies with clause 20, involves no greater disturbance to the ground or vegetation than necessary, and does not result in an increase in stormwater drainage or run-off from the site concerned:

- (a) investigation (including geotechnical and other testing, surveying and sampling) at, above or below the surface of the ground,
- (b) routine maintenance (including removal of graffiti or debris, repair or replacement of lighting, mechanical systems, electrical equipment or air monitoring equipment and replacement of screening of overhead bridges),
- (c) emergency works to protect railway infrastructure facilities, the environment or the public,
- (d) maintenance, repair or replacement of identification, directional or safety signs that does not involve a change in their location or size,
- (e) maintenance of existing access roads,
- (f) slope stability works that are required for safety reasons,
- (g) erection and maintenance of safety barriers,
- (h) construction, maintenance or realignment of security fencing with a height of not more than 3.2m above ground level (existing),
- (i) reconstruction, maintenance or repair of culverts or drains that is required because of flood damage or high stormwater flows,
- (j) upgrading or maintenance of landscaping, or vegetation management, that:
  - (i) does not involve construction works, and
  - (ii) involves the replacement (if any) of existing materials with similar materials only,
- (k) installation, maintenance or replacement of temporary structures or signs, being structures or signs associated with alternative transport arrangements necessitated by rail track work or railway maintenance and that are removed as soon as practicable.

### **83 (Repealed)**

## **Subdivision 2 Development in rail corridors**

### **Note—**

This Subdivision contains provisions requiring the notification of certain development to ARTC, Sydney Metro or RailCorp. See also clause 45.

#### **84 Development involving access via level crossings**

- (1) This clause applies to development that involves:
  - (a) a new level crossing, or
  - (b) the conversion into a public road of a private access road across a level crossing, or
  - (c) a likely significant increase in the total number of vehicles or the number of trucks using a level crossing that is in the vicinity of the development.
- (2) Before determining a development application for development to which this clause applies, the consent authority must:
  - (a) within 7 days after the application is made, give written notice of the application to the chief executive officer of the rail authority for the rail corridor, and
  - (b) take into consideration:
    - (i) any response to the notice that is received within 21 days after the notice is given, and
    - (ii) the implications of the development for traffic safety including the costs of ensuring an appropriate level of safety, having regard to existing traffic characteristics and any likely change in traffic at level crossings as a result of the development, and
    - (iii) the feasibility of access for the development that does not involve use of level crossings.
- (3) Subject to subclause (5), the consent authority must not grant consent to development to which this clause applies without the concurrence of the chief executive officer of the rail authority for the rail corridor.
- (4) In determining whether to provide concurrence, the chief executive officer must take into account:
  - (a) any rail safety or operational issues associated with the aspects of the development, and
  - (b) the implications of the development for traffic safety including the cost of ensuring an appropriate level of safety, having regard to existing traffic and any likely change in traffic at level crossings as a result of the development.
- (5) The consent authority may grant consent to development to which this clause applies without the concurrence of the chief executive officer of the rail authority for the rail corridor if:



- (a) the consent authority has given the chief executive officer notice of the development application, and
  - (b) 21 days have passed since that notice was given and the chief executive officer has not granted or refused to grant concurrence.
- (6) The consent authority must provide the rail authority for the rail corridor with a copy of the determination of the application within 7 days after the determination is made.
- (7) In this clause:

**level crossing** means a level crossing over railway lines.

**traffic** includes rail, road and pedestrian traffic.

#### **85 Development immediately adjacent to rail corridors**

- (1) This clause applies to development on land that is in or immediately adjacent to a rail corridor, if the development:
- (a) is likely to have an adverse effect on rail safety, or
  - (b) involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or
  - (c) involves the use of a crane in air space above any rail corridor.
- (2) Before determining a development application for development to which this clause applies, the consent authority must:
- (a) within 7 days after the application is made, give written notice of the application to the chief executive officer of the rail authority for the rail corridor, and
  - (b) take into consideration:
    - (i) any response to the notice that is received within 21 days after the notice is given, and
    - (ii) any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.

#### **86 Excavation in, above or adjacent to rail corridors**

- (1) This clause applies to development (other than development to which clause 88 applies) that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land:
- (a) within or above a rail corridor, or
  - (b) within 25m (measured horizontally) of a rail corridor. or

- (c) within 25m (measured horizontally) of the ground directly above an underground rail corridor.
- (2) Before determining a development application for development to which this clause applies, the consent authority must:
  - (a) within 7 days after the application is made, give written notice of the application to the chief executive officer of the rail authority for the rail corridor, and
  - (b) take into consideration:
    - (i) any response to the notice that is received within 21 days after the notice is given, and
    - (ii) any guidelines issued by the Director-General for the purposes of this clause and published in the Gazette.
- (3) Subject to subclause (4), the consent authority must not grant consent to development to which this clause applies without the concurrence of the chief executive officer of the rail authority for the rail corridor to which the development application relates, unless that rail authority is ARTC.
- (4) In deciding whether to provide concurrence, the chief executive officer must take into account:
  - (a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:
    - (i) the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and
    - (ii) the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and
  - (b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.
- (5) The consent authority may grant consent to development to which this clause applies without the concurrence of the chief executive officer of the rail authority for the rail corridor if:
  - (a) the consent authority has given the chief executive officer notice of the development application, and
  - (b) 21 days have passed since giving the notice and the chief executive officer has not granted or refused to grant concurrence.

### **87 Impact of rail noise or vibration on non-rail development**

- (1) This clause applies to development for any of the following purposes that is on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration:
  - (a) a building for residential use,
  - (b) a place of public worship,
  - (c) a hospital,
  - (d) an educational establishment or child care centre.
- (2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.
- (3) If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:
  - (a) in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am,
  - (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

### **88 Development within or adjacent to interim rail corridor**

- (1) This clause applies to development that is:
  - (a) in the area marked “Zone A” on a rail corridors map and has a capital investment value of more than \$200,000, or
  - (b) in the area marked “Zone B” on a rail corridors map and:
    - (i) involves the penetration of ground to a depth of at least 2m below ground level (existing), or
    - (ii) has a capital investment value of more than \$200,000 and involves the erection of a structure that is 10 or more metres high or an increase in the height of a structure so that it is more than 10m.
- (2) This clause also applies to development on land within 25 metres of that part of the Interim Rail Link Corridor shown on the map marked “*State Environmental Planning Policy (Infrastructure) 2007—Interim Rail Corridor—South West Rail Link*”, but only in

relation to a development application lodged before 31 December 2010.

- (3) Before determining a development application to which this clause applies, the consent authority must give written notice of the application to the rail authority for the interim rail corridor in which the development is to be carried out (***the relevant rail authority***) within 7 days after the application is made.
- (4) Except as provided by subclause (6), consent must not be granted to development to which this clause applies without the concurrence of the chief executive officer of the relevant rail authority.
- (5) In determining whether to provide concurrence, the chief executive officer of the relevant rail authority is to take into account the likely effect of the development on:
  - (a) the practicability and cost of carrying out rail expansion projects on the land in the future, and
  - (b) without limiting paragraph (a), the structural integrity or safety of, or ability to operate, such a project, and
  - (c) without limiting paragraph (a), the land acquisition costs and the costs of construction, operation or maintenance of such a project.
- (6) The consent authority may grant consent to development to which this clause applies without the concurrence of the chief executive officer of the relevant rail authority if:
  - (a) the consent authority has given the chief executive officer notice of the development application, and
  - (b) 21 days have passed since that notice was given and the chief executive officer has not granted or refused to grant concurrence.
- (7) The consent authority must provide the relevant rail authority with a copy of the determination of the application within 7 days after the determination is made.

#### **88A Major development within Interim Metro Corridor**

- (1) This clause applies to land within the City of Sydney that is within the Interim Metro Corridor.
- (2) A consent authority must:
  - (a) give written notice of an application for consent to major development on land to which this clause applies to Sydney Metro within 7 days of receiving the application, and
  - (b) before determining the application, take into account any submissions made by Sydney Metro within 21 days after giving the notice.

- (3) A consent authority must not grant consent to major development on land to which this clause applies if the development would have an adverse effect on the viability of the proposed metro, including by increasing the likely cost of developing the proposed metro.
- (4) For the purposes of determining whether a proposed major development could have an adverse effect on the viability of the proposed metro, a consent authority may rely on a certificate issued by Sydney Metro that certifies whether or not there would be any such adverse effect.
- (5) The consent authority must provide Sydney Metro with a copy of the determination of the application within 7 days after the determination is made.

#### **88B Development near proposed metro stations**

- (1) This clause applies to land shown as CBD Metro Station Extent on a rail corridors map and land that is adjacent to that land.
- (2) A consent authority must not grant consent to development on land to which this clause applies unless it has taken into consideration:
  - (a) whether the proposed development will adversely affect the development and operation of a proposed metro station, including by impeding access to, or egress from, the proposed metro station, and
  - (b) whether the proposed development will encourage the increased use of public transport.

#### **88C Development near proposed Rozelle Metro Station**

- (1) This clause applies to land shown as CBD Metro Station Extent on the rail corridors map and marked "Rozelle" and land that is adjacent to that land.
- (2) A consent authority must:
  - (a) give written notice of an application for consent to development on land to which this clause applies to Sydney Metro within 7 days of receiving the application, and
  - (b) before determining the application, take into account any submissions made by Sydney Metro within 21 days after giving the notice.
- (3) The consent authority must provide Sydney Metro with a copy of the determination of the application within 7 days after the determination is made.
- (4) This clause applies only in respect of a development application that is lodged before 31 December 2010.

## **89 Review of land within interim rail corridors**

The Minister must, in consultation with the Minister for Transport, as soon as practicable after 17 February 2010 and every 2 years after that, review the interim rail corridors to determine whether any of the land included in a corridor should be excluded from the operation of this Policy on the basis that the land is no longer required for railway purposes.

## **Division 16 Research and monitoring stations**

### **90 Definitions**

In this Division:

**monitoring station** means a facility operated for the principal purpose of monitoring weather, noise, air, water, groundwater or environmental impacts.

**prescribed zone** means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) RU1 Primary Production,
- (b) RU2 Rural Landscape,
- (c) RU3 Forestry,
- (d) RU4 Rural Small Holdings,
- (e) RU5 Village,
- (f) IN4 Working Waterfront,
- (g) SP1 Special Activities,
- (h) SP2 Infrastructure,
- (i) W2 Recreational Waterways,
- (j) W3 Working Waterways.

**research station** means a facility operated by a public authority for the principal purpose of agricultural, environmental, fisheries, forestry, minerals or soil conservation research, and includes any associated facility for education, training, administration or accommodation.

### **91 Development permitted with consent**

Development for the purpose of research stations may be carried out by or on behalf of a public authority with consent on land in a prescribed zone.

## 92 Development permitted without consent

- (1) Development for any of the following purposes connected with an existing research station may be carried out by or on behalf of a public authority without consent on land in a prescribed zone:
  - (a) maintenance or operation of the research station,
  - (b) replacement of buildings,
  - (c) demolition of buildings,
  - (d) minor alterations of or additions to the research station,if the development does not involve the clearing of more than 2 hectares of native vegetation.
- (2) Development for the purpose of a monitoring station (other than development to which clause 92A applies) may be carried out by or on behalf of a public authority without consent on any land.

### 92A Exempt development

Development for the purpose of a monitoring station is exempt development if it complies with clause 20 and is carried out on land within a prescribed zone.

## Division 17 Roads and traffic

### Subdivision 1 Road infrastructure facilities

#### 93 Definitions

In this Division:

**AS 1428.2** means AS:1428.2—1992, *Design for access and mobility—Enhanced and additional requirements—Buildings and facilities*.

**classified road** has the same meaning as it has in the Standard Instrument.

**Note—**

The Standard Instrument defines **classified road** (by reference to the [Roads Act 1993](#)) to mean any of the following:

- (a) a main road,
- (b) a highway,
- (c) a freeway,
- (d) a controlled access road,
- (e) a secondary road,
- (f) a tourist road,
- (g) a tollway,
- (h) a transitway,
- (i) a State work.

See the [Roads Act 1993](#) for the meanings of the terms listed above.

**Disability Standards** means *Disability Standards for Accessible Public Transport 2002* made under the [Disability Discrimination Act 1992](#) of the Commonwealth.

**prescribed zone** means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) B4 Mixed Use,
- (b) B6 Enterprise Corridor,
- (b1) B8 Metropolitan Centre,
- (c) IN1 General Industrial,
- (d) IN2 Light Industrial,
- (e) IN3 Heavy Industrial,
- (f) SP1 Special Activities,
- (g) SP2 Infrastructure.

**public road** means:

- (a) any road that is opened or dedicated as a public road, whether under the [Roads Act 1993](#) or any other Act or law, and
- (b) any road that is declared to be a public road for the purposes of the [Roads Act 1993](#).

**road corridor** means:

- (a) land that is used for the purposes of a road or road infrastructure facilities and owned or managed by a public authority, or



- (b) any land in respect of which the Minister has granted approval under Part 3A or Part 5.1 or (before its repeal) Division 4 of Part 5 of the Act, or consent under Part 4 of the Act, for the carrying out of development for the purpose of a road or road infrastructure facilities.

**road infrastructure facilities** includes:

- (a) tunnels, ventilation shafts, emergency accessways, vehicle or pedestrian bridges, causeways, road-ferries, retaining walls, toll plazas, toll booths, security systems, bus lanes, transit lanes, transitways, transitway stations, rest areas and road related areas (within the meaning of the [Road Transport \(General\) Act 2005](#)), and
- (a1) associated public transport facilities for roads used to convey passengers by means of regular bus services within the meaning of the [Passenger Transport Act 1990](#), and
- (a2) bus layovers that are integrated or associated with roads (whether or not the roads are used to convey passengers by means of regular bus services within the meaning of the [Passenger Transport Act 1990](#)), and
- (b) traffic control facilities (as defined by the [Transport Administration Act 1988](#)), RTA road safety training facilities and safety works.

**RTA** means the Roads and Traffic Authority constituted under the [Transport Administration Act 1988](#).

**STA** means the State Transit Authority of New South Wales constituted under the [Transport Administration Act 1988](#).

#### **94 Development permitted without consent—general**

- (1) Development for the purpose of a road or road infrastructure facilities may be carried out by or on behalf of a public authority without consent on any land. However, such development may be carried out without consent on land reserved under the [National Parks and Wildlife Act 1974](#) only if the development:
- (a) is authorised by or under the [National Parks and Wildlife Act 1974](#), or
- (b) is, or is the subject of, an existing interest within the meaning of section 39 of that Act, or
- (c) is on land to which that Act applies over which an easement has been granted and is not contrary to the terms or nature of the easement.
- (2) In this clause and clause 96, a reference to development for the purpose of **road infrastructure facilities** includes a reference to development for any of the following purposes if the development is in connection with a road or road infrastructure facilities:

- (a) construction works (whether or not in a heritage conservation area), including:
  - (i) temporary buildings or facilities for the management of construction, if they are in or adjacent to a road corridor, and
  - (ii) creation of embankments, and
  - (iii) extraction of extractive materials and stockpiling of those materials, if:
    - (A) the extraction and stockpiling are ancillary to road construction, or
    - (B) the materials are used solely for road construction and the extraction and stockpiling take place in or adjacent to a road corridor, and
  - (iv) temporary crushing or concrete batching plants, if they are used solely for road construction and are on or adjacent to a road corridor, and
  - (v) temporary roads that are used solely during road construction,
- (b) emergency works, or routine maintenance works, carried out on an existing public road or on land that is adjacent to such a road (including on land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies but, if they are on such land, only if any adverse effect on the land is restricted to the minimum possible to allow the works to be carried out),
- (c) alterations or additions to an existing road (such as widening, duplication or reconstruction of lanes, changing the alignment or strengthening of the road),
- (d) environmental management works, if the works are in or adjacent to a road corridor.

#### **95 Development permitted without consent—particular roads or road projects**

Development for the purpose of any of the following roads or road projects (as described in Schedule 2) may be carried out by or on behalf of a public authority without consent:

- (a) the Eastern Distributor,
- (b) the Cross City Tunnel,
- (c) the Lane Cove Tunnel,
- (d) the Tugun Bypass,
- (e) the Liverpool—Parramatta Transitway,
- (f) the North-West Sydney Transitway Network.

## **96 Development permitted with consent**

- (1) Development for the purpose of a road or road infrastructure facilities (other than development referred to in clause 94 (1) or 95) may be carried out by any person with consent on land within a special area within the meaning of the *Sydney Water Catchment Management Act 1998*.
- (2) Development for any of the following purposes may be carried out by any person with consent on land in a prescribed zone:
  - (a) transitway parking stations,
  - (b) bus depots,
  - (c) permanent road maintenance depots and associated infrastructure (such as garages, fuel sheds, tool houses, storage yards and workers' amenities).

## **97 Exempt development**

- (1) Development for any of the following purposes is exempt development if it is carried out by or on behalf of a public authority in connection with a road or road infrastructure facilities and complies with clause 20:
  - (a) construction, maintenance or repair of bus stops or bus shelters (but not including any commercial advertising on them) in an area serviced by STA buses, if the stops or shelters:
    - (i) are consistent with the *Bus Stop Style Guide* (State Transit Authority, 1999), and
    - (ii) comply with the development standards, and other requirements, relating to bus stops and shelters in a relevant development control plan, and
    - (iii) any associated kerb construction, access paths and ramps, lighting and signage complies with AS:1428.2 and the Disability Standards,
  - (b) construction, maintenance or repair of bus stops or shelters (but not including any commercial advertising on them) outside an area serviced by STA buses, if:
    - (i) they have a height above the footpath of not more than 3.2m, and
    - (ii) they have only non-reflective finishes, and
    - (iii) they do not obstruct the line of sight of vehicular traffic or pedestrian traffic, and
    - (iv) they comply with the development standards, and other requirements, relating to bus stops and shelters in a relevant development control plan, and
    - (v) any associated kerb construction, access paths and ramps, lighting and

signage complies with AS:1428.2 and the Disability Standards,

- (c) erection, installation, maintenance, reconstruction, repair or replacement of any of the following, and any associated landscaping works:
  - (i) security fencing with a height above ground level (existing) of not more than 3.2m,
  - (ii) safety barriers or systems, including Jersey barriers,
  - (iii) directional, safety or other advisory signs relating to road works or the use of existing road infrastructure facilities,
  - (iv) pedestrian and cyclist facilities (such as footpaths, street lighting, kerb adjustments and ramps, pedestrian fences, refuges, holding rails, and bollards),
  - (v) slope stability works that are required for safety reasons and minor road safety improvements,
  - (vi) minor road pavement or shoulder work (such as patching, grading, re-sheeting, sealing and re-sealing),
  - (vii) street furniture (such as seats, bins and directional signs) and any associated kerb construction, access paths and ramps, lighting and signage that complies with AS:1428.2 and the Disability Standards,
  - (viii) removal from or addition to existing traffic lights of items such as signal displays, loops or buttons,
  - (ix) roadside facilities and rest areas, if the development does not involve the installation of toilets and involves no greater disturbance to the ground or vegetation than necessary,
  - (x) street lighting, if any replacement involves the replacement of existing materials with similar materials only and if the lighting minimises light spill and artificial sky glow in accordance with AS/NZS 1158:2007, *Lighting for Roads and Public Spaces*,
  - (xi) pavement and road surface markings (such as bus lane markings), lane delineators, electric pavement lights, detection loops and traffic counters,
  - (xii) kerb and guttering,
  - (xiii) culverts, drains and other works to improve the quality or control of stormwater runoff,
- (d) repair or replacement of lighting, mechanical systems, electrical equipment or air

monitoring equipment, replacement of screening of overhead bridges and removal of graffiti or debris,

- (e) emergency works to protect a road or road infrastructure facilities, the environment or the public, but only if they involve no greater disturbance to soil or vegetation than necessary,
- (f) upgrading or maintenance of landscaping, or vegetation management (such as weed spraying, slashing and pruning), that:
  - (i) does not involve construction works, and
  - (ii) involves the replacement (if any) of existing materials with similar materials only,
- (g) installation, replacement or maintenance of temporary structures (such as temporary bus stops, bus shelters or signs) that are associated with alternative transport arrangements necessitated by road works or road maintenance or repair and that are removed as soon as practicable,
- (h) investigation (including geotechnical and other testing, surveying and sampling) at, above or below the surface of the ground, but only if the investigation:
  - (i) involves no greater disturbance to the ground or vegetation than necessary, and
  - (ii) does not result in any increase in stormwater drainage or run-off from the site concerned.

(2) In this clause:

***relevant development control plan*** means, in relation to a bus stop or bus shelter, a development control plan (as in force on the commencement of this Policy) that has been adopted by the council for the local government area in which the stop or shelter is located.

## **Subdivision 2 Development in or adjacent to road corridors and road reservations**

### **98 Development other than road facilities on public roads**

- (1) Development may be carried out with consent on a public road that is unzoned land for any purpose that may be carried out (either with or without consent) on land adjoining the road.
- (2) Development for any purpose may be carried out by a public authority without consent on a public road that is unzoned land.

## **99 Highway service centres in road corridors**

Development for the purpose of a highway service centre may be carried out in a road corridor for a freeway, tollway or national highway only with consent.

## **100 Development on proposed classified road**

- (1) Consent for development for any of the following purposes on land reserved for the purposes of a classified road (but before the land is declared to be a classified road) may be granted only with the concurrence of the chief executive officer of the RTA:
  - (a) subdivision that results in the creation of an additional lot with dwelling entitlements,
  - (b) development with a capital investment value greater than \$150,000,
  - (c) development for the purpose of dwellings that are, or any other building that is, to be held under strata title.
- (2) Before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must:
  - (a) give written notice of the application to the chief executive officer of the RTA within 7 days after the application is made, and
  - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.
- (3) In deciding whether to grant concurrence to proposed development under this clause, the chief executive officer of the RTA must take the following matters into consideration:
  - (a) the need to carry out development for the purposes of a classified road or a proposed classified road,
  - (b) the imminence of acquisition of the land by the RTA,
  - (c) the likely additional cost to the RTA resulting from the carrying out of the proposed development.
- (4) The consent authority must give the RTA a copy of the determination of the application within 7 days after the determination is made.
- (5) The consent authority may grant consent to development to which this clause applies without the concurrence of the chief executive officer of the RTA if:
  - (a) the consent authority has given the chief executive officer notice of the development application, and
  - (b) 21 days have passed since giving the notice and the chief executive officer has

not granted or refused to grant the concurrence.

### **101 Development with frontage to classified road**

- (1) The objectives of this clause are:
  - (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and
  - (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.
- (2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:
  - (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and
  - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:
    - (i) the design of the vehicular access to the land, or
    - (ii) the emission of smoke or dust from the development, or
    - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
  - (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

### **102 Impact of road noise or vibration on non-road development**

- (1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA) and that the consent authority considers is likely to be adversely affected by road noise or vibration:
  - (a) a building for residential use,
  - (b) a place of public worship,
  - (c) a hospital,
  - (d) an educational establishment or child care centre.
- (2) Before determining a development application for development to which this clause

applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.

- (3) If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:
  - (a) in any bedroom in the building—35 dB(A) at any time between 10 pm and 7 am,
  - (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.
- (4) In this clause, **freeway**, **tollway** and **transitway** have the same meanings as they have in the [Roads Act 1993](#).

### **103 Excavation in or immediately adjacent to corridors**

- (1) This clause applies to development that involves the penetration of ground to a depth of at least 3m below ground level (existing) on land that is the road corridor of any of the following roads or road projects (as described in Schedule 2):
  - (a) the Eastern Distributor,
  - (b) the Cross City Tunnel,
  - (c) the Lane Cove Tunnel,
  - (d) the Tugun Bypass,
  - (e) the Liverpool—Parramatta Transitway,
  - (f) the North-West Sydney Transitway Network.
- (2) Before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must:
  - (a) give written notice of the application to the RTA within 7 days after the application is made, and
  - (b) take into consideration:
    - (i) any response to the notice that is received within 21 days after the notice is given, and
    - (ii) any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette, and
    - (iii) any implications of the ground penetration for the structural integrity of the



road or project, and

(iv) any cost implications for the road or project of the ground penetration.

(3) The consent authority must provide the RTA with a copy of the determination of the application within 7 days after the determination is made.

#### **104 Traffic-generating development**

(1) This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:

(a) new premises of the relevant size or capacity, or

(b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.

(2) In this clause, **relevant size or capacity** means:

(a) in relation to development on a site that has direct vehicular or pedestrian access to any road—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or

(b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.

(3) Before determining a development application for development to which this clause applies, the consent authority must:

(a) give written notice of the application to the RTA within 7 days after the application is made, and

(b) take into consideration:

(i) any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and

(ii) the accessibility of the site concerned, including:

(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and

(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and

(iii) any potential traffic safety, road congestion or parking implications of the

development.

- (4) The consent authority must give the RTA a copy of the determination of the application within 7 days after the determination is made.

## **Division 18 Sewerage systems**

### **105 Definitions**

In this Division:

**biosolids treatment facility** means a facility for the treatment of biosolids from a sewage treatment plant or from a water recycling facility.

**Northside Storage Tunnel** means:

- (a) a tunnel running from Thorn Street, Hunters Hill to the North Head Sewage Treatment Plant, Manly, and
- (b) a branch tunnel to Scotts Creek, and
- (c) branch bores to two outlets at Tarban Creek, namely, the Huntley's Point submain and the Woolwich submain, and
- (d) a branch shaft to South Willoughby, and
- (e) a branch tunnel to Shelly Beach.

**prescribed zone** means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) RU1 Primary Production,
- (b) RU2 Rural Landscape,
- (c) RU4 Rural Small Holdings,
- (d) IN1 General Industrial,
- (e) IN3 Heavy Industrial,
- (f) SP1 Special Activities,
- (g) SP2 Infrastructure.

**sewage reticulation system** means a facility for the collection and transfer of sewage to a sewage treatment plant or water recycling facility for treatment, or transfer of the treated water for use or disposal, including associated:

- (a) pipelines and tunnels, and

- (b) pumping stations, and
- (c) dosing facilities, and
- (d) odour control works, and
- (e) sewage overflow structures, and
- (f) vent stacks.

**sewage treatment plant** means a facility for the treatment and disposal of sewage, whether or not the facility supplies recycled water for use as an alternative water supply.

**sewerage system** means a biosolids treatment facility, sewage reticulation system, sewage treatment plant, water recycling facility, or any combination of these.

**water recycling facility** means a facility for the treatment of sewage effluent, stormwater or waste water for use as an alternative supply to mains water, groundwater or river water (including sewer mining works), whether the facility stands alone or is associated with other development, and includes associated:

- (a) retention structures, and
- (b) treatment works, and
- (c) irrigation schemes.

#### **106 Development permitted with or without consent**

- (1) Development for the purpose of sewage treatment plants or biosolids treatment facilities may be carried out:
  - (a) by or on behalf of a public authority or any person licensed under the [Water Industry Competition Act 2006](#) without consent on land in a prescribed zone, and
  - (b) by any other person with consent on land in a prescribed zone.
- (2) Development for the purpose of water recycling facilities may be carried out:
  - (a) by or on behalf of a public authority or any person licensed under the [Water Industry Competition Act 2006](#) without consent on land in a prescribed zone, and
  - (b) by any other person with consent on land in a prescribed zone or on any land where the development is ancillary to an existing land use.

However, such development may be carried out on land reserved under the [National Parks and Wildlife Act 1974](#) only if the development is authorised by or under that Act.

- (3) Development for the purpose of sewage reticulation systems may be carried out:

- (a) by or on behalf of a public authority or any person licensed under the *Water Industry Competition Act 2006* without consent on any land, and
- (b) by any other person with consent on any land.

However, such development may be carried out on land reserved under the *National Parks and Wildlife Act 1974* only if the development is authorised by or under that Act.

- (4) Development for the purpose of the Northside Storage Tunnel may be carried out by or on behalf of Sydney Water Corporation without consent on land in any of the following local government areas:
  - (a) Hunters Hill,
  - (b) Lane Cove,
  - (c) Leichhardt,
  - (d) Manly,
  - (e) Mosman,
  - (f) North Sydney,
  - (g) Willoughby.
- (5) A reference in this Division to development for the purpose of a sewerage system of any kind includes a reference to development for any of the following purposes if the development is in connection with the sewerage system:
  - (a) pumping stations, pipelines and tunnels,
  - (b) temporary storage and transfer works to reticulate sewage or treated effluent,
  - (c) effluent and biosolids reuse schemes,
  - (d) power supply to the development,
  - (e) energy generating works,
  - (f) construction works,
  - (g) routine maintenance works,
  - (h) environmental management works.

### **107 Exempt development**

Development for any of the following purposes carried out by or on behalf of a public authority is exempt development if the development is in connection with a sewerage system and complies with clause 20:

- (a) emergency works or emergency maintenance or repairs to protect a sewerage system, if they involve no greater soil or vegetation disturbance than necessary,
- (b) investigation for system development or to establish the condition or safety of existing infrastructure (including geotechnical and other testing, surveying and sampling) at, above or below the surface of the ground, if the investigation:
  - (i) involves no greater disturbance to the ground or vegetation than necessary, and
  - (ii) does not result in any increase in stormwater drainage or run-off from the site concerned,
- (c) routine maintenance or associated landscaping works, including the following, if any disturbance to soil or vegetation is no greater than necessary:
  - (i) removal of litter or debris from stormwater quality improvement devices,
  - (ii) harvesting of macrophytes associated with a treatment system,
  - (iii) excavations to expose a pipeline for inspection or testing and the creation of temporary stockpiles associated with pipeline maintenance, repair or replacement,
  - (iv) flushing or relining of a pipeline if access is by a manhole,
  - (v) maintenance of access tracks along corridors, pipelines and other infrastructure,
  - (vi) painting, servicing or minor alteration of existing equipment,
  - (vii) alterations to existing enclosures or buildings,
  - (viii) maintenance, repair, renewal or replacement of pumping station components other than for the purpose of substantially increasing the capacity of the pumping station or structural alteration,
- (d) installation, maintenance or repair of a trunk drainage channel, pipeline marker or cathodic protection system,
- (e) works for safety or security, such as:
  - (i) construction, maintenance or realignment of security fencing that has a height above ground level (existing) of not more than 3.2m, or
  - (ii) temporary fencing around work sites or around open excavations, or
  - (iii) maintenance or repair of existing gates or installation of new gates,
- (f) temporary structures associated with maintenance projects, but only if the structure has only one storey.

## **Division 19 Soil conservation works**

### **108 Definition**

In this Division:

**soil conservation works** means development necessary:

- (a) to avoid, manage or mitigate the effects of salinity, acid sulfate soils, acid soils or sodic soils, or
- (b) to avoid, manage or mitigate the effects of erosion.

### **109 Development permitted without consent**

- (1) Development for the purpose of soil conservation works may be carried out by or on behalf of a public authority without consent on any land.
- (2) A reference in this clause to development for the purpose of soil conservation works includes a reference to development for any of the following purposes if the development is in connection with soil conservation works:
  - (a) construction works,
  - (b) routine maintenance works,
  - (c) emergency works, including works associated with landslides,
  - (d) environmental management works.

## **Division 20 Stormwater management systems**

### **110 Definition**

In this Division:

**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.

### **111 Development permitted without consent**

- (1) Development for the purpose of stormwater management systems may be carried out by or on behalf of a public authority without consent on any land.

- (2) A reference in this clause to development for the purpose of stormwater management systems includes a reference to development for any of the following purposes if the development is in connection with a stormwater management system:
- (a) construction works,
  - (b) routine maintenance works, including maintenance dredging to remove sediment build-up in a stormwater canal or at exit points into natural waterways that affects the efficiency of the stormwater management system,
  - (c) environmental management works.

### **112 Exempt development**

Development for any of the following purposes carried out by or on behalf of a public authority is exempt development if the development is in connection with a stormwater management system and complies with clause 20 if the development involves no greater soil or vegetation disturbance than necessary and does not involve any increase in stormwater drainage or run-off from the site concerned:

- (a) emergency works or emergency maintenance or repairs to protect a stormwater management system,
- (b) investigation for system development or to establish the condition or safety of existing infrastructure (including geotechnical and other testing, surveying and sampling) at, above or below the surface of the ground,
- (c) routine maintenance or associated landscaping works, including the following:
  - (i) removal of litter or debris from stormwater quality improvement devices,
  - (ii) harvesting of macrophytes associated with a treatment system,
  - (iii) excavations to expose a pipeline for inspection or testing and temporary stockpiles associated with pipeline maintenance or repair,
  - (iv) flushing or relining of a pipeline where access is by a manhole,
  - (v) maintenance of access tracks along corridors, pipelines and other infrastructure,
  - (vi) painting, servicing or minor alteration of existing equipment,
  - (vii) alterations to existing enclosures or buildings,
- (d) installation, maintenance, repair or replacement of a trunk drainage channel, pipeline marker or cathodic protection system,
- (e) works for safety or security, such as:
  - (i) construction, maintenance or realignment of security fencing that has a height

above ground level (existing) of not more than 3.2m, or

(ii) temporary fencing around work sites or around open excavations, or

(iii) maintenance or repair of existing gates or installation of new gates,

(f) temporary structures associated with maintenance projects, but only if the structure has only one storey.

## Division 21 Telecommunications and other communication facilities

### Note—

Clause 1.8 (2) of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP)* provides that if the Codes SEPP and this Policy specify the same development as either exempt or complying development, the Codes SEPP does not apply to that development if:

- (a) the development is carried out by a person who may carry out the development under this Policy, and
- (b) in the case of development for the purposes of the construction or installation of an aerial or antenna—the aerial or antenna is for use for some purpose other than:
  - (i) receiving television or radio signals, or
  - (ii) in connection with community band or two-way radio (or any combination of these uses), or
  - (iii) any combination of the uses referred to in subparagraphs (i) and (ii), and
- (c) in the case of development for the purposes of the construction or installation of a radio or satellite communications dish—the dish is for use for some purpose other than receiving television or radio signals (or both).

Also, installation of a telecommunications facility of a kind identified as a low-impact facility in the Low-Impact Facilities Determination may be exempt from State laws under Schedule 3 to the *Telecommunications Act 1997* of the Commonwealth.

### 113 Definitions

In this Division and Schedule 3A:

**ancillary facilities** to a telecommunications facility means any of the following:

- (a) safety rails, fences or guards,
- (b) staircases or ladders,
- (c) steel walkways,
- (d) spreader beams supporting shelters,
- (e) screens or shrouds,
- (f) cable trays,
- (g) pole, rail or pedestal mounts,
- (h) electromagnetic energy, safety or operational signage,



- (i) anti climbing devices,
- (j) power supply such as cabling, standby generators or small solar arrays,
- (k) raised platforms on flood liable land.

**array of antennas** means two or more antennas connected and arranged in a regular structure to form a single antenna.

**carrier** has the same meaning as in the [Telecommunications Act 1997](#) of the Commonwealth.

**Civil Aviation Safety Authority** means the Civil Aviation Safety Authority established under the [Civil Aviation Act 1988](#) of the Commonwealth.

**co-location purpose** means for the purpose of placing the telecommunications facilities of two or more carriers on the same support structure.

**directional antenna** means an antenna that focuses a narrow beam in a single specific direction, and includes an array of such antennas.

**Electromagnetic Radiation Standard** means the *Radiocommunications (Electromagnetic Radiation—Human Exposure) Standard 2003* made under section 162 of the [Radiocommunications Act 1992](#) of the Commonwealth.

**emergency**, in relation to a telecommunications facility, means circumstances in which the facility must be installed without delay to protect:

- (a) the integrity of a telecommunications network or a facility, or
- (b) the health or safety of persons, or
- (c) the environment, or
- (d) property, or
- (e) the maintenance of an adequate level of service.

**equivalent land use zone**, in relation to a named land use zone, means a land use zone that is equivalent to the named land use zone.

**Note—**

Land use zones that are named in this Policy are those set out in the Standard Instrument. See also clause 6 for the meaning of a land use zone that is equivalent to a named land use zone.

**fibre access node** means a facility that houses equipment for the purposes of a fibre to the premises distribution network.

**fibre to the premises distribution network** means an extensive network of optical fibre cables reaching all the way to the particular premises to which communications

services are provided.

**heritage item** means a local heritage item or a State heritage item.

**interconnect point** means a facility that contains connection points for connection to a distribution network by wholesale or retail telecommunications service providers.

**Low-Impact Facilities Determination** means the *Telecommunications (Low-impact Facilities) Determination 1997* made under clause 6 (3) of Schedule 3 to the *Telecommunications Act 1997* of the Commonwealth.

**maintenance activities**, in relation to a telecommunications facility, means painting, restoration or minor replacement of materials, elements, components, equipment or fixtures that comprise the facility for the purposes of maintaining or ensuring the proper functioning of the facility.

**microcell installation** means an installation that comprises one or more antennas and associated equipment cabinets for use in supplementing a mobile phone network in heavy usage areas by providing localised additional coverage or extra call capacity (or both).

**Mobile Phone Networks Code** means the Australian Communications Industry Forum Industry Code entitled ACIF C564:2004*Deployment of Mobile Phone Network Infrastructure*.

**omnidirectional antenna** means an antenna that sends or receives signals equally in all directions, and includes:

- (a) an array of such antennas, and
- (b) such an antenna for repeater installations, global positioning systems and the like.

**panel antenna** means a directional antenna that is flat and has a panel-like appearance.

**Radiation Protection Standard** means the Radiation Protection Standard entitled *Maximum Exposure Levels to Radiofrequency Fields—3 kHz to 300 GHz (2002)* published by the Australian Radiation Protection and Nuclear Safety Agency.

**subscriber connection** means an installation for the sole purpose of connecting premises to a telecommunications network.

**support mount**, in relation to a telecommunications facility, means a structure to support the facility, but does not include a tower.

**telecommunications facility** means:

- (a) any part of the infrastructure of a telecommunications network, or
- (b) any line, cable, optical fibre, fibre access node, interconnect point, equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole or other structure

in connection with a telecommunications network, or

(c) any other thing used in or in connection with a telecommunications network.

**telecommunications network** has the same definition as it has in the Standard Instrument.

**Note—**

The Standard Instrument defines **telecommunications network** as follows:

**telecommunications network** means a system, or series of systems, that carries, or is capable of carrying, communications by means of guided or unguided electromagnetic energy, or both.

**tower** means a freestanding ground-based structure that supports a telecommunications facility at a height where it can satisfactorily send and receive radio waves, but does not include the facility.

**yagi antenna** means an antenna that radiates in only one direction, consisting of one or two dipoles connected to the transmitting or receiving circuit, and several insulated dipoles all parallel and about equally spaced in a line.

#### **114 Development permitted without consent**

- (1) Development for the purposes of telecommunications facilities (including radio facilities) may be carried out by a public authority without consent on any land.
- (2) Before a public authority undertakes the development of a tower or mast under this clause, the public authority must:
  - (a) give written notice of its intention to carry out the development to the council of the area in which the land is located (unless the authority is that council) and to the occupiers of any adjoining land, and
  - (b) take into consideration any response to the notice that is received within 21 days after the notice is given, and
  - (c) take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the Director-General for the purposes of this clause and published in the Gazette.
- (3) Development for the purpose of co-locating telecommunications network cables on electricity or cable poles or with underground electricity or cable facilities, other than subscriber connections, may be carried out by any person without consent on any land.
- (3A) To avoid doubt, development does not cease to be development permitted under subclause (3) if a cable is not co-located on a pole for safety reasons.

- (4) Development for the purpose of subscriber connections, other than development of a kind specified in clause 116, may be carried out by any person without consent on any land unless the subscriber's premises, or any land traversed by the connection, is a State or local heritage item or is located in a heritage conservation area.
- (5) Development for the purposes of an underground telecommunications network cable, other than subscriber connections, may be carried out by any person without consent on any land if the existing electricity or telecommunications network cable facilities are located underground.
- (6) Before carrying out development to which subclause (5) applies, a person must:
  - (a) give written notice of the intention to carry out the development to the council for the area in which the land is located, and
  - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.
- (7) Development for the purposes of a new or existing fibre access node (including the extension of the area of an existing fibre access node or the installation of equipment, plant or structures in an existing fibre access node or an associated building) may be carried out by any person without consent on any land.
- (8) Before carrying out development to which subclause (7) applies that is not a project to which Part 3A of the Act applies, a person must:
  - (a) give written notice of the intention to carry out the development to the council for the area in which the land is located and to the occupiers of adjoining and adjacent land, and
  - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.

**114A Development permitted without consent—submarine cables**

Development for the purpose of submarine telecommunication cables (and any attached devices) laid on or under the seabed beneath the coastal waters of the State and below the mean high water mark, being cables used for communications between Australia and other countries, may be carried out by any person without consent on any land.

**115 Development permitted with consent**

- (1) Development for the purposes of telecommunications facilities, other than development in clause 114 or development that is exempt development under clause 20 or 116, may be carried out by any person with consent on any land.
- (2) (Repealed)

- (3) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines concerning site selection, design, construction or operating principles for telecommunications facilities that are issued by the Director-General for the purposes of this clause and published in the Gazette.

#### **116 Exempt development**

Development carried out by or on behalf of any person on land in connection with a telecommunications facility is exempt development if:

- (a) it is for any of the purposes specified in Part 1 of Schedule 3A, and
- (b) it meets the development standards (if any) for the development specified in Part 1 of Schedule 3A, and
- (c) it complies with clause 20, and
- (d) the land on which the development is proposed to be carried out is not located in an environmentally sensitive area within the meaning of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, and
- (e) (Repealed)
- (f) in the case of development that is development of a kind to which the Mobile Phone Networks Code applies:
  - (i) it complies with that Code, and
  - (ii) it is designed, installed and operated so that the maximum human exposure levels to radio frequency emissions comply with the Radiation Protection Standard, and

#### **Note—**

If the development is for a co-location purpose, then the new telecommunications facility must be designed, installed and operated so that the resultant cumulative levels of radio frequency emissions of the co-located telecommunications facilities are within the maximum human exposure levels set out in the Radiation Protection Standard.

- (g) in the case of development for the purpose of boring or directional drilling in connection with a telecommunications facility or for the purpose of an underground conduit or cable deployed by either trench or direct burial:
  - (i) access to business premises is not restricted between the hours of 7 am and 5 pm, Monday to Friday, or such other hours agreed to by the relevant local government authority (ie, any hours within the range of 7 am to 5 pm), and
  - (ii) where the development is on land in Zone R1, R2, R3, R4, R5 or RU5 or an equivalent land use zone—not more than 100 metres of excavation is left open at any time and vehicle access to each affected property is not lost for more than 8

hours in total, and

- (h) it complies with any relevant site and height requirements specified by the *Civil Aviation Regulations 1988* and the *Airports (Protection of Airspace) Regulations 1996* of the Commonwealth, and

**Note**

See the Advisory Circular 139-08(0) entitled *Reporting of Tall Structures* issued by the Civil Aviation Safety Authority in 2005 concerning these requirements.

- (i) it does not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 30 kilometres of the proposed development and reported to the Civil Aviation Safety Authority, and
- (j) (Repealed)

**116A Complying development**

- (1) Development carried out by or on behalf of any person on land in connection with a telecommunications facility (other than exempt development under clause 20A or 116) is complying development if:
  - (a) it is for any of the purposes specified by Part 2 of Schedule 3A, and
  - (b) it meets the development standards (if any) for the development specified in Part 2 of Schedule 3A, and
  - (c) it complies with the requirements of this clause and clause 20B.
- (2) To be complying development, the development:
  - (a) (Repealed)
  - (b) must be carried out in accordance with all relevant requirements of the Blue Book, and
  - (c) must not be carried out on land located in an environmentally sensitive area within the meaning of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, and
  - (d) in the case of development that involves the installation of equipment—must be carried out in accordance with the applicable specifications (if any) of the manufacturer for the installation of such equipment, and
  - (e) in the case of development that is development of a kind to which the Mobile Phone Networks Code applies—must:
    - (i) comply with that Code, and

- (ii) be designed, installed and operated so that the maximum human exposure levels to radio frequency emissions comply with the Radiation Protection Standard, and

**Note—**

If the development is for a co-location purpose, then the new telecommunications facility must be designed, installed and operated so that the resultant cumulative levels of radio frequency emissions of the co-located telecommunications facilities are within the maximum human exposure levels set out in the Radiation Protection Standard.

- (f) must comply with any relevant site and height requirements specified by the *Civil Aviation Regulations 1988* and the *Airports (Protection of Airspace) Regulations 1996* of the Commonwealth, and

**Note**

See the Advisory Circular 139-08(0) entitled *Reporting of Tall Structures* issued by the Civil Aviation Safety Authority in 2005 concerning these requirements.

- (g) must not penetrate any obstacle limitation surface shown on any relevant Obstacle Limitation Surface Plan that has been prepared by the operator of an aerodrome or airport operating within 30 kilometres of the proposed development and reported to the Civil Aviation Safety Authority, and

- (h), (i) (Repealed)

**116B Complying development certificates—additional conditions**

A complying development certificate for development that is complying development under this Division is subject to the following conditions:

- (a) the conditions set out in clause 20C,
- (b) if the development is part of infrastructure for a public mobile phone network—the principal certifying authority must, before work commences, be given:
  - (i) in the case of development that will produce electromagnetic radiation—a report in the format required by the Australian Radiation Protection and Nuclear Safety Agency that shows the predicted levels of electromagnetic energy surrounding the development comply with the safety limits imposed by the Australian Communications and Media Authority and the Electromagnetic Radiation Standard, and
  - (ii) a report showing compliance with the Mobile Phone Networks Code.

**116C Relationship of this Division with *Telecommunications Act 1997* of Commonwealth**

- (1) If a carrier is authorised to carry out development for a particular purpose by Division 2, 3 or 4 of Part 1 of Schedule 3 to the *Telecommunications Act 1997* of the Commonwealth, this Division does not authorise or permit the carrier to carry out

development for that purpose otherwise than in accordance with the authority given by that Act.

- (2) If the development that a carrier proposes to carry out is not authorised by Division 2, 3 or 4 of Part 1 of Schedule 3 to the *Telecommunications Act 1997* of the Commonwealth, nothing in this Division prevents the carrier from carrying out development for that purpose in a manner authorised or permitted by this Division.

#### **116D Application of amendments made by State Environmental Planning Policy (Infrastructure) Amendment (Telecommunications Facilities) 2010**

A consent authority is not required to have regard to guidelines issued for the purposes of clause 115 (3) (as inserted by *State Environmental Planning Policy (Infrastructure) Amendment (Telecommunications Facilities) 2010*) in relation to development applications made, but not finally determined, before the commencement of that subclause.

### **Division 22 Travelling stock reserves**

#### **117 Definitions**

In this Division:

**rural lands protection board** means a rural lands protection board constituted under Part 6 of the *Rural Lands Protection Act 1998*.

**travelling stock reserve** has the same meaning as it has in the *Rural Lands Protection Act 1998*.

**Note—**

The *Rural Lands Protection Act 1998* defines **travelling stock reserve** as follows:

**travelling stock reserve** means:

- (a) any route or camping place reserved for travelling stock route or camping place under the *Crown Lands Act 1989*, or
- (b) any reserve for travelling stock, water reserve, reserve for access or crossing (where the reserve is for the purpose of providing travelling stock with access to or a crossing of water, whether expressly notified for that purpose or not), or
- (c) any stock watering place.

#### **118 Development permitted without consent**

- (1) Development for the purpose of maintaining or managing a travelling stock reserve, other than development of a kind specified in clause 119, may be carried out by or on behalf of a public authority or a rural lands protection board without consent on land within the reserve.
- (2) Subclause (1) does not authorise the carrying out of development for any of the following purposes:



- (a) the erection of a building or the reconstruction or alteration of a building so as materially to affect its design or purpose,
- (b) any development designed to change the use or purpose of the reserve.

### **119 Development permitted with consent**

Development for any of the following purposes may be carried out with consent by or on behalf of a public authority or a rural lands protection board on land within a travelling stock reserve:

- (a) the erection of buildings, or the reconstruction or alteration of buildings in such a way as to materially affect their design or purpose,
- (b) any development designed to change the use or purpose of the travelling stock reserve.

## **Division 23 Waste or resource management facilities**

### **120 Definitions**

In this Division:

**prescribed zone** means any of the following land use zones or a land use zone that is equivalent to any of those zones:

- (a) RU1 Primary Production,
- (b) RU2 Rural Landscape,
- (c) IN1 General Industrial,
- (d) IN3 Heavy Industrial,
- (e) SP1 Special Activities,
- (f) SP2 Infrastructure.

**resource recovery facility** means a facility for the recovery of resources from waste, including such works or activities as separating and sorting, processing or treating the waste, composting, temporary storage, transfer or sale of recovered resources, energy generation from waste gases and water treatment, but not including re-manufacture of material or goods or disposal of the material by landfill or incineration.

**waste disposal facility** means a facility for the disposal of waste by landfill, incineration or other means, including associated works or activities such as recycling, resource recovery and other resource management activities, energy generation from waste gases, leachate management, odour control and the winning of extractive material to generate a void for disposal of waste or to cover waste after its disposal.

**waste or resource management facility** means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.

**waste or resource transfer station** means a facility for the collection and transfer of waste material or resources, including the receipt, sorting, compacting, temporary storage and distribution of waste or resources and the loading or unloading of waste or resources onto or from road or rail transport.

#### **121 Development permitted with consent**

- (1) Development for the purpose of waste or resource management facilities, other than development referred to in subclause (2), may be carried out by any person with consent on land in a prescribed zone.
- (2) Development for the purposes of a waste or resource transfer station may be carried out by any person with consent on:
  - (a) land in a prescribed zone, or
  - (b) land in any of the following land use zones or equivalent land use zones:
    - (i) B5 Business Development,
    - (ii) B6 Enterprise Corridor,
    - (iii) IN2 Light Industrial,
    - (iv) IN4 Working Waterfront, or
  - (c) land on which development for any of the following purposes is permitted with consent under any environmental planning instrument:
    - (i) industry,
    - (ii) business premises or retail premises,
    - (iii) freight transport facilities.
- (3) Development for the purpose of the recycling of construction and demolition material, or the disposal of virgin excavated natural material (as defined by the [Protection of the Environment Operations Act 1997](#)) or clean fill, may be carried out by any person with consent on land on which development for the purpose of industries, extractive industries or mining may be carried out with consent under any environmental planning instrument.

#### **122 Additional permitted uses—Castlereagh Liquid Waste Disposal Depot**

- (1) In this clause:

**depot** means the Castlereagh Liquid Waste Disposal Depot.

**depot site** means the land shown edged heavy black on the map marked “*State Environmental Planning Policy (Infrastructure) 2007—Castlereagh Liquid Waste Disposal Depot*” held in the head office of the Department of Planning.

- (2) Development for the purposes of monitoring or mitigating pollution as a result of the operation of the depot, may be carried out by any person without consent on the depot site.
- (3) Development for any of the following purposes may be carried out by any person with consent on the depot site:
  - (a) rehabilitation of land,
  - (b) disposal of inert waste,
  - (c) resource recovery or recycling facilities.

### **123 Determination of development applications**

- (1) In determining a development application for development for the purpose of the construction, operation or maintenance of a landfill for the disposal of waste, including putrescible waste, the consent authority must take the following matters into consideration:
  - (a) whether there is a suitable level of recovery of waste, such as by using alternative waste treatment or the composting of food and garden waste, so that the amount of waste is minimised before it is placed in the landfill, and
  - (b) whether the development:
    - (i) adopts best practice landfill design and operation, and
    - (ii) reduces the long term impacts of the disposal of waste, such as greenhouse gas emissions or the offsite impact of odours, by maximising landfill gas capture and energy recovery, and
  - (c) if the development relates to a new or expanded landfill:
    - (i) whether the land on which the development is located is degraded land such as a disused mine site, and
    - (ii) whether the development is located so as to avoid land use conflicts, including whether it is consistent with any regional planning strategies or locational principles included in the publication *EIS Guideline: Landfilling* (Department of Planning, 1996), as in force from time to time, and
  - (d) whether transport links to the landfill are optimised to reduce the environmental and social impacts associated with transporting waste to the landfill.

(2) In this clause:

**putrescible waste** means general solid waste (putrescible) within the meaning of clause 49 of Schedule 1 to the *Protection of the Environment Operations Act 1997*.

## Division 24 Water supply systems

### 124 Definitions

In this Division:

**water reticulation system** means a facility for the transport of water, including pipes, tunnels, canals, bores, pumping stations, related electricity infrastructure, dosing facilities and water supply reservoirs.

**water storage facility** means a dam, weir or reservoir for the collection and storage of water, and includes associated monitoring or gauging equipment.

**water supply system** means a water reticulation system, water storage facility, water treatment facility, or any combination of these.

**water treatment facility** means a facility for the treatment of water (such as a desalination plant or a recycled or reclaimed water plant) whether the water produced is potable or not, and includes residuals treatment, storage and disposal facilities, but does not include a water recycling facility within the meaning of Division 18 (Sewerage systems).

### 125 Development permitted without consent

- (1) Development for the purpose of water reticulation systems may be carried out by or on behalf of a public authority without consent on any land.
- (2) Development for the purpose of water storage facilities, including development for any of the following purposes, may be carried out by or on behalf of a public authority without consent on land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone SP1 Special Activities, Zone SP2 Infrastructure or an equivalent land use zone:
  - (a) catchment management works,
  - (b) public recreational facilities associated with a water storage facility.
- (3) Development for the purpose of water treatment facilities may be carried out by or on behalf of a public authority without consent on land in any of the following land use zones:
  - (a) RU1 Primary Production,
  - (b) RU2 Rural Landscape,

- (c) RU4 Rural Small Holdings,
  - (d) IN1 General Industrial,
  - (e) IN3 Heavy Industrial,
  - (f) SP1 Special Activities,
  - (g) SP2 Infrastructure.
- (4) Development for the purpose of a water supply system may be carried out on land reserved under the *National Parks and Wildlife Act 1974* only if it is authorised by or under that Act.
- (5) In this Division, a reference to development for the purpose of a water supply system of any kind includes a reference to development for any of the following purposes if the development is in connection with the water supply system:
- (a) dams, reservoirs, weirs, levees, spillways and fishways,
  - (b) catchment management works,
  - (c) groundwater investigation works, groundwater bore stations, borefields, minewater works and the like,
  - (d) access ways,
  - (e) water intakes, pumping stations, pipelines, channels, tunnels, canals and aqueducts,
  - (f) gauging and monitoring equipment,
  - (g) power supply to the water supply system,
  - (h) hydro-electric power generation equipment and associated connections to the electricity network,
  - (i) construction works,
  - (j) emergency works and routine maintenance works,
  - (k) environmental management works.
- (6) Development for any of the following purposes may be carried out by or on behalf of the Sydney Catchment Authority without consent on any land:
- (a) investigations into the availability of groundwater (including mine water), extraction of groundwater or mine water, and associated water reticulation systems,

- (b) development to enable access to deep water extraction in dams within the Sydney Catchment Authority's area of operations under the *Sydney Water Catchment Management Act 1998*, including investigations, associated works or equipment and construction works and other water supply infrastructure, such as the Megarrity's Creek Water Pumping Station and other Warragamba Emergency Scheme works.

#### **126 Development permitted without consent—desalination plants**

Development for the purpose of a desalination plant or a pilot desalination plant, including development for any of the following purposes, may be carried out by or on behalf of Sydney Water Corporation without consent on any land:

- (a) the Kurnell Desalination Plant (as declared to be a critical infrastructure project by Schedule 5 to *State Environmental Planning Policy (Major Projects) 2005*),
- (b) a pilot desalination plant on the Kurnell Peninsula.

#### **127 Exempt development**

Development for the following purposes carried out by or on behalf of a public authority is exempt development if the development is in connection with a water supply system and complies with clause 20 and if it involves no greater soil or vegetation disturbance than necessary and no increase in stormwater drainage or run-off from the site:

- (a) emergency works or emergency maintenance or repairs to protect a water supply system,
- (b) geotechnical or other testing, surveying, sampling or investigation (whether taking place at, above or below the surface of the ground) required for system development or to establish the condition or safety of existing infrastructure,
- (c) routine maintenance or associated landscaping works,
- (d) removal of litter or debris from stormwater quality improvement devices,
- (e) harvesting of macrophytes associated with a treatment system,
- (f) excavations to expose a pipeline for inspection or testing and temporary stockpiles associated with pipeline maintenance, repair or replacement,
- (g) installation, repair or maintenance of a trunk drainage channel or pipeline marker,
- (h) installation, repair, maintenance or replacement of a cathodic protection system,
- (i) flushing or relining of a pipeline where access is by a manhole,
- (j) maintenance of access tracks along or to corridors, pipelines and other infrastructure,

- (k) painting, servicing or minor alteration of existing equipment,
- (l) alterations to existing enclosures or buildings,
- (m) maintenance, repair, renewal and replacement of pump station components otherwise than for the purpose of substantially increasing capacity and not involving structural alteration,
- (n) works for safety or security, such as:
  - (i) construction, maintenance or realignment of security fencing that has a height above ground level (existing) of not more than 3.2m, or
  - (ii) temporary fencing around work sites or around open excavations, or
  - (iii) maintenance or repair of existing gates or installation of new gates,
- (o) temporary structures associated with maintenance projects, but only if the structure has only one storey,
- (p) public recreational facilities within a drinking water catchment area.

## **Division 25 Waterway or foreshore management activities**

### **128 Definitions**

In this Division:

**coastal lake** has the same meaning as in [State Environmental Planning Policy No 71—Coastal Protection](#).

**Coastal Panel** means the NSW Coastal Panel established under Part 2A of the [Coastal Protection Act 1979](#).

**coastal protection works** has the same meaning as in the [Coastal Protection Act 1979](#).

**coastal zone management plan** has the same meaning as in the [Coastal Protection Act 1979](#).

**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, and
- (b) instream management or dredging to rehabilitate aquatic habitat or to maintain or restore environmental flows or tidal flows for ecological purposes, and
- (c) coastal management and beach nourishment, including erosion control, dune or foreshore stabilisation works, headland management, weed management,

revegetation activities and foreshore access ways, and

- (d) coastal protection works, and
- (e) salt interception schemes to improve water quality in surface freshwater systems, and
- (f) installation or upgrade of waterway gauging stations for water accounting purposes.

### **129 Development permitted without consent**

- (1) Despite clause 129A, development for the purpose of waterway or foreshore management activities may be carried out by or on behalf of a public authority without consent on any land.
  - (1A) To avoid doubt, subclause (1) does not permit the subdivision of any land.
  - (2) In this clause, a reference to development for the purpose of waterway or foreshore management activities includes a reference to development for any of the following purposes if the development is in connection with waterway or foreshore management activities:
    - (a) construction works,
    - (b) routine maintenance works,
    - (c) emergency works, including works required as a result of flooding, storms or coastal erosion,

**Note—**

Temporary coastal protection works within the meaning of the [Coastal Protection Act 1979](#) are excluded from the operation of the EP&A Act and therefore are not development to which this clause applies.

- (d) environmental management works.
- (2A) The following provisions apply in relation to the carrying out of new coastal protection works by or on behalf of a public authority on the open coast or entrance to a coastal lake:
  - (a) if a coastal zone management plan is in force in relation to the land on which the development is to be carried out—the public authority (or person carrying out the works on behalf of the public authority) must consider the provisions of that plan before carrying out the development,
  - (b) if a coastal zone management plan is not in force in relation to the land on which the development is to be carried out—the public authority (or person carrying out the works on behalf of the public authority) must:
    - (i) notify the Coastal Panel before carrying out the development, and
    - (ii) take into consideration any response received from the Coastal Panel within 21



days of the notification.

(2B) For the purposes of subclause (2A):

***new coastal protection works*** means coastal protection works other than:

- (a) the placement of sand (including for beach nourishment) or sandbags, or
- (b) the replacement, repair or maintenance of any such works.

(3) Development for the purpose of temporary works for or associated with drought relief may be carried out by or on behalf of a public authority without consent, but only if the development is:

- (a) carried out on land publicly identified by the Minister for Primary Industries as being in drought, and
- (b) removed, and the area rehabilitated, within 4 months after the date on which the area is no longer so identified.

**Note—**

Areas of NSW that are in drought are identified on the website of the Department of Primary Industries.

### **129A Development with consent**

- (1) Development for the purposes of a sea wall or beach nourishment may be carried out by any person with consent on the open coast or entrance to a coastal lake.
- (2) If a coastal zone management plan does not apply to the land on which any such development is to be carried out, the Coastal Panel has the function of determining a development application for development to which this clause applies.
- (3) Before determining a development application for development to which this clause applies, the consent authority must take the following matters into consideration:
  - (a) the provisions of any coastal zone management plan applying to the land,
  - (b) the matters set out in clause 8 of [State Environmental Planning Policy No 71—Coastal Protection](#),
  - (c) any guidelines for assessing and managing the impacts of coastal protection works that are issued by the Director-General for the purposes of this clause and published in the Gazette.

**Note—**

Section 55M of the [Coastal Protection Act 1979](#) sets out preconditions to the granting of development consent relating to coastal protection works.

## **Division 26 Special provisions**

**130 Riding for the disabled centre to be complying development**

- (1) Subject to subclause (2), the following development for the purposes of a horse riding facility for people with disabilities, on the land known as 118–120 Culloden Road, Marsfield, being Lots 652 and 653, DP752035, is complying development:
- (a) construction or alteration of, or addition to, a single unenclosed covered arena structure, if:
    - (i) it has a total area, inside the structure, of not more than 1600m<sup>2</sup>, and
    - (ii) it is not within 9m of any boundary of the site, and
    - (iii) the roof of the structure is less than 8.2m in height, with support poles of less than 6m in height and constructed of non-reflective material,
  - (b) construction or alteration of, or addition to, a single office premises, if:
    - (i) the footprint of the built area of the office, at ground level (finished), is less than 220m<sup>2</sup>, and
    - (ii) they have 2 storeys or less, and
    - (iii) the external walls and roof are constructed of non-reflective material,
  - (c) construction or alteration of, or addition to, horse yards and stables, if:
    - (i) the horse yards have a total area of not more than 3,150m<sup>2</sup>, and
    - (ii) the area of each horse yard is not more than 330m<sup>2</sup>, and
    - (iii) each horse yard is not within 6m of any boundary of the site, and
    - (iv) the stable is not within 25m of any boundary of the site, and
    - (v) the stable is not more than one storey, and
    - (vi) the external walls and roof are constructed of non-reflective material,
  - (d) car parking that is situated at ground level and that is not enclosed.
- (2) To be complying development, development referred to in subclause (1) must:
- (a) comply with clause 20B, and
  - (b)–(d) (Repealed)
  - (e) comply with the waste management and minimisation and stormwater management requirements under the *City of Ryde Development Control Plan 2006*, as in force at the commencement of this clause, and

- (f) in the case of buildings, be constructed in accordance with level 1 construction under Australian Standard AS 3959—1999, *Construction of buildings in bushfire-prone areas*.

**Note—**

Section 76A (6) of the Act also provides that certain development cannot be complying development.

**131 Complying development certificate —additional conditions for riding for disabled centre**

A complying development certificate for development referred to in clause 130 is subject to the following conditions (in addition to the conditions set out in clause 20C):

- (a)–(c) (Repealed)
- (d) to control dust emissions from the site, suitable screens or barricades must be erected prior to any demolition, excavation or building work,
- (e) construction or demolition work must be carried out so as to protect existing trees on the site,
- (f)–(h) (Repealed)
- (i) the horse riding facility is to operate only between 7.30am and 5.00pm, but the office premises may operate until 10.00pm,
- (j) there are not to be more than 10 horses and stables at the facility.

**Schedule 1 Exempt development—general**

(clause 20A)

<b>Development purpose</b>	<b>Development standards</b>
<b>General provisions</b>	
Access ramps for persons with a disability	<ul style="list-style-type: none"><li>• Ramps must provide access to public transport, outdoor recreational areas or the ground floor of buildings or car parks.</li><li>• Grade must not exceed 1:14 and must comply with AS 1428.1–2001, <i>Design for access and mobility—General requirements for access—New building work</i>.</li><li>• Ramp structures must not create a traffic or pedestrian hazard or be part of a State or local heritage item.</li></ul>

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| Air conditioning units   | <ul style="list-style-type: none"><li>• Must have a Minimum Energy Performance Standard consistent with AS/NZS 3823.2:2005, <i>Performance of electrical appliances—Airconditioners and heat pumps—Energy labelling and minimum energy performance standard (MEPS) requirements</i>.</li><li>• Noise level must not exceed 5dB(A) above ambient background noise level measured at property boundary.</li><li>• Surface area must not exceed 20m<sup>2</sup> (except for an educational establishment).</li></ul>   |
| Awnings, canopies, pergolas and storm blinds                       | <ul style="list-style-type: none"><li>• Height must not exceed 2.4m above ground level (existing).</li><li>• Must maintain all required boundary setbacks for the associated building and no part of structure must be within 900mm of any property boundary.</li><li>• Must involve only repair or renovation, or painting, plastering or other decoration, of building.</li></ul>   |
| Building external alterations including re-cladding roofs or walls | <ul style="list-style-type: none"><li>• Must not result in enlargement or extension of building or increase in load-bearing capacity of any load-bearing component of building.</li><li>• Any re-cladding must involve only replacing existing materials with similar materials and not involve structural alterations.</li></ul>   |
| Building internal alterations                                      | <ul style="list-style-type: none"><li>• Must be non-structural alterations to existing building only, such as:<ul style="list-style-type: none"><li>(i) replacement of doors, wall, ceiling or floor linings or deteriorated frame members with equivalent or improved quality materials, or</li><li>(ii) inclusion of built-in fixtures.</li></ul></li><li>• Must not affect load-bearing capacity of any load-bearing component of building.</li><li>• Must be open (unenclosed) car parking (but may include associated gates including security booths and boom gates).</li></ul> |
| Car parks  | <ul style="list-style-type: none"><li>• Must not be carried out on land within a growth centre (within the meaning of <i>State Environmental Planning Policy (Sydney Region Growth Centres) 2006</i>) that is not <b>subject land</b> within the meaning of clause 17 of Schedule 7 to the <i>Threatened Species Conservation Act 1995</i>.</li></ul>   |

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| Carports associated with an existing building   | <ul style="list-style-type: none"><li>• Surface area must not exceed 20m<sup>2</sup>.</li><li>• Height must not exceed 2.4m above ground level (existing).</li><li>• Must be located behind any relevant building setback.</li><li>• Must be no part of structure within 500mm of any side or rear boundary.</li><li>• Stormwater drainage or run-off must be via connection to existing stormwater system.</li><li>• Surface area must not exceed 10m<sup>2</sup>.</li></ul> |
| Decks (unroofed and attached to a building that is not located on bush fire prone land)   | <ul style="list-style-type: none"><li>• Finished surface level must not be more than 1m above ground level (existing).</li><li>• Boundary setbacks for existing building to be maintained.</li></ul>  |
| Demolition of buildings or structures (unless part of a heritage item or within a heritage conservation area) the erection of which is exempt development under this Policy | <ul style="list-style-type: none"><li>• Must be carried out in accordance with AS 2601—2001, <i>Demolition of structures</i> and must not cover an area of more than 100m<sup>2</sup>.</li></ul>  |
| Fences—erection of security fences  | <ul style="list-style-type: none"><li>• Must be for infrastructure facility and erected along road frontage or non-road boundary.</li><li>• Height must not exceed 2.15m above ground level (existing).</li><li>• Must be constructed so as not to prevent natural flow of stormwater drainage or run-off.</li></ul>  |
| Fences (other than security fences or fences covered by the <a href="#">Swimming Pools Act 1992</a> )   | <ul style="list-style-type: none"><li>• If in a residential zone, height of boundary fence must not exceed 1.8m above ground level (existing) if behind front building line and 1.2m if forward of that line.</li><li>• Must not include masonry construction to a height of more than 900mm above ground level (existing).</li></ul>   |
| Fire fighting emergency equipment—construction or maintenance of emergency equipment including replacement or augmentation of fire systems and fire water tanks             | <ul style="list-style-type: none"><li>• If located within a residential care facility for seniors (within the meaning of <a href="#">State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</a>), a fire sprinkler system must comply with the Fire Sprinkler Standard (within the meaning of Division 7B in Part 9 of the <a href="#">Environmental Planning and Assessment Regulation 2000</a>).</li></ul>                              |

- Flagpoles
- Height must not exceed 6m above ground level (existing) or above an existing building.
  - Must not display commercial advertising.
  - Flagpole structure and any attached flag must not project over public road.
- Hoardings to restrict unauthorised entry to construction sites—erection in conjunction with erection or demolition of, or carrying out of alterations or additions to, a building or carrying out of maintenance or repairs (for which, in each case, any required consent has been obtained)
- Must not encroach onto footpath or public thoroughfare.
  - Must be removed immediately on completion of work if removal will not give rise to safety risk.
- Landscaping (including paving and turfing and access tracks) carried out in conjunction with other development which is exempt under this Policy
- Construction and maintenance of external lighting if light spill is contained within site and in accordance with AS 4282-1997, *Control of the obtrusive effects of outdoor lighting*.
- Lighting—construction or maintenance
- Construction and maintenance of lighting at or in vicinity of air transport facilities if consistent with *Manual of Standards (MOS)—Part 139—Aerodromes* published by the Civil Aviation Safety Authority (established under [Civil Aviation Act 1988](#) of the Commonwealth).
  - Height must not exceed 1 storey.
  - Setbacks must be in accordance with any applicable setback provisions of development control plan applying to site.
- Offices—portable
- Must not be carried out on land within a growth centre (within the meaning of [State Environmental Planning Policy \(Sydney Region Growth Centres\) 2006](#)) that is not **subject land** within the meaning of clause 17 of Schedule 7 to the [Threatened Species Conservation Act 1995](#).

- Height (including any stand) must not exceed 2.4m above ground level (existing).
  - No part of structure must be within 450mm of any property boundary or situated no closer to street than any associated building.
  - Rainwater tank must be fitted with first-flush device that causes initial run-off of any rain to bypass tank to reduce pollutants entering tank.
- Rainwater and bore water tanks
- Installation must not involve excavation of more than 1m from ground level (existing), or filling of more than 1m above ground level (existing).
  - Must not be installed over any structure or fittings used by public authority to maintain water or sewer main.
  - Must be sign affixed to tank, clearly stating that water in tank is rainwater or bore water (as appropriate).
- Retaining walls
- Must not provide for retaining of fill to height above ground level (existing) of more than 2m or excavation to depth below ground level (existing) of more than 1m.
  - Must not prevent the natural flow of stormwater drainage/run-off.
- Scaffolding—erection in conjunction with erection or demolition of, or carrying out of alterations or additions to, a building or carrying out of maintenance or repairs (for which, in each case, any required consent has been obtained)
- Must not encroach onto footpath or public thoroughfare.
  - Temporary fencing must be provided to restrict unauthorised access to site if scaffolding is within 3m of any boundary.
  - Must be removed immediately on completion of work if removal will not give rise to safety risk.
- Security cameras—installation for security purposes
- Must be free-standing, prefabricated and constructed of non-reflective materials.
- Sheds
- Development must not result in shed with a total floor area exceeding 30m<sup>2</sup>.
  - Height must not exceed 2.5m above ground level (existing).
  - Must be located in rear of infrastructure facility.

- Skylight or roof windows
- Area of skylight must not exceed 2m<sup>2</sup>.
  - Must not be located within 900mm of any property boundary or within 900mm of any wall separating attached dwellings.
  - Work must not reduce structural integrity of building or involve structural alterations.

### General provisions: signs

- Identification, directional, community information or safety signs but not including roof-top signs or commercial advertising or signs associated with the use of road infrastructure (including signs associated with level crossings)
- Surface area must not exceed 3.5m<sup>2</sup>.
  - Must be located wholly within property boundary or be attached to existing boundary fence and not projecting more than 100mm from fence.
  - Obtrusive effects of outdoor lighting must be controlled in accordance with AS 4282-1997, *Control of the obtrusive effects of outdoor lighting*.

- Identification, directional, community information or safety signs associated with the use of road infrastructure
- Must be consistent with road safety policies and guidelines on outdoor advertising approved by the Director-General for the purpose of this provision and published in the Gazette.

- Temporary signs advertising an event and associated relevant details including sponsorship of the event
- Surface area must not exceed 3.5m<sup>2</sup>.
  - Must be located wholly within property boundary.
  - Must not be displayed earlier than 28 days before event and must be removed within 14 days after event.
  - Obtrusive effects of outdoor lighting must be controlled in accordance with AS 4282-1997 *Control of the obtrusive effects of outdoor lighting*.

### General provisions: subdivision

- Boundaries—adjustment to the boundary of a lot (including to widen a public road or create a public reserve)
- Must not result in:
    - (i) creation of any additional lot or legal right to erect dwelling, or
    - (ii) creation of lot that depends on use of services provided to, or utilities of, another lot, or
    - (iii) change in area of any lot by more than 10 per cent, or
    - (iv) increased bush fire risk to existing buildings.

## Schedule 1A (Repealed)



## **Schedule 2 Railways, roads and associated projects**

(Clauses 80, 95 and 103)

### **1 Cross City Tunnel**

A tollway comprising twin 2 lane tunnels from William Street, Sydney, near the eastern end of the Kings Cross Tunnel to the Western Distributor near Harbour Street.

### **2 Eastern Distributor**

A roadway linking the Cahill Expressway, Woolloomooloo, to Mill Pond Road, Botany, including associated works and facilities.

### **3 Lane Cove Tunnel**

A transport system comprising the following:

- (a) dual road tunnels that generally follow the alignment of Epping Road from just east of the intersection of Epping Road and Mowbray Road West to the Gore Hill Freeway, east of the Pacific Highway,
- (b) a 2-lane bridge over the Lane Cove River adjacent to the south side of the existing bridge,
- (c) modifications, including widening to some sections, to Epping Road between Wicks Road and the Gore Hill Freeway and adjustments to lanes connecting with the M2 Motorway,
- (d) modifications to the Gore Hill Freeway including widening between the Pacific Highway and Reserve Road and beneath the Willoughby Road overpass at Naremburn,
- (e) associated ramps between the tunnel and Epping Road and between the tunnel and the Pacific Highway,
- (f) north-facing ramps between Falcon Street and the Warringah Freeway,
- (g) a ramp between the eastbound tunnel and the Gore Hill Freeway,
- (h) modifications to existing ramps between the Pacific Highway and the Gore Hill Freeway,
- (i) 2 ventilation stacks, 1 near the eastern end of the tunnel and 1 near the western end of the tunnel.

The project includes all associated and ancillary works, activities, uses, structures or facilities including (but not limited to) works, activities, uses, structures or facilities for the provision of dedicated bus lanes or transit lanes on Epping Road, Longueville Road and the Gore Hill Freeway, and pedestrian and cycle facilities on Epping Road, Longueville Road

and the Gore Hill Freeway.

#### **4 Liverpool—Parramatta Transitway**

A passenger transport system between Liverpool and Parramatta via Bonnyrigg, Wetherill Park, Smithfield and Wentworthville.

#### **5 North-West Sydney Transitway Network**

Links of a passenger transport system between:

- (a) Blacktown and Castle Hill via Kings Park, Kings Langley, Acacia Gardens, Glenwood, Parklea, Stanhope Gardens and Kellyville, and
- (b) Parramatta and Rouse Hill (Mungerie Park) via Westmead, Wentworthville, Old Toongabbie, Toongabbie, Winston Hills, Seven Hills, Baulkham Hills, Kings Langley, Bella Vista, Glenwood, Kellyville and Stanhope Gardens.

#### **6 Parramatta Rail Link**

A heavy railway from Parramatta to Chatswood. The project would commence in the general vicinity of the Main Western Railway line west of Parramatta Station and would then proceed via Parramatta, Camellia, Carlingford, Epping, the vicinity of Macquarie University, the vicinity of Delhi Road, the vicinity of the University of Technology Kuring-gai Campus to Chatswood (including a bridge over or a tunnel under the Lane Cove River).

#### **7 Rail Clearways Program**

The following 10 railway system upgrade major projects within the Sydney metropolitan area, known collectively as the “Rail Clearways Program”:

(a) **Hornsby Upgrading**

Additional rail line, station works upgrade and extension of Hornsby stabling yard.

(b) **Cronulla Upgrading**

Upgrading of the Cronulla Line, alterations to Cronulla, Kirrawee, Woollooware and Sutherland Stations and the reconfiguration of stabling.

(c) **Lidcombe Upgrading**

Upgrading Lidcombe Station and track changes (including a turnback line).

(d) **Homebush Upgrading**

Upgrading Homebush Station and track changes (including a turnback line).

(e) **Kingsgrove to Revesby Upgrading**

Upgrading Revesby Station, additional tracks between and in the vicinity of

Kingsgrove to Revesby Stations and any associated station works.

**(f) Quakers Hill to Vineyard Upgrading**

Construction of stations, upgrading of stations, relocation of stations, additional tracks between and in the vicinity of Quakers Hill to Vineyard Stations.

**(g) Carlingford Line Upgrading**

Track changes including construction of a passing loop and the upgrading of Rydalmere Station.

**(h) Sydenham-Erskineville Upgrading**

Track changes including construction of two additional rail lines from Sydenham to Erskineville, upgrading Sydenham, St Peters and Erskineville Stations and modifications to road bridges.

**(i) Liverpool Upgrading**

Upgrading Liverpool Station, reconfiguration of stabling and changes to track (including a turnback line).

**(j) Macarthur Upgrading**

Upgrading Macarthur Station, reconfiguration of stabling and changes to track (including a turnback line).

**8 Southern Sydney Freight Line**

Development for the purposes of the Southern Sydney Freight Line, being a rail track adjacent to the Main South line between east of Sefton Park junction and south of Macarthur via Cabramatta, and all infrastructure and services that form part of the new line.

**9 Sydney Airport Rail Link**

A railway linking the domestic and international terminals at Sydney (Kingsford Smith) Airport with the Sydney Central Business District and the East Hills railway line in the vicinity of Turrella.

**10 Tugun Bypass**

A 4-lane dual carriageway freeway with provision to upgrade to 6 traffic lanes in the future. The bypass would run to the south and west of the Gold Coast Airport runway generally between the NSW-Queensland border (in the vicinity of Boyd Street) to join with the Pacific Highway at West Tweed Heads (in the vicinity of Kennedy Drive), a distance of approximately 4.1km.

## Schedule 3 Traffic generating development to be referred to the RTA

(Clause 104)

Column 1	Column 2	Column 3
<b>Purpose of development</b> <b>Note—</b> <b>The development may be the erection of new premises or the enlargement or extension of existing premises</b>	<b>Size or capacity—site with access to any road</b>	<b>Size or capacity—site with access to classified road or to road that connects to classified road (if access within 90m of connection, measured along alignment of connecting road)</b>
Apartment or residential flat building	300 or more dwellings	75 or more dwellings
Area used exclusively for parking or any other development having ancillary parking accommodation	200 or more motor vehicles	50 or more motor vehicles
Commercial premises	10,000m <sup>2</sup> in area	2,500m <sup>2</sup> in area
Commercial premises and industry	15,000 m <sup>2</sup> in area	4,000m <sup>2</sup> in area
Drive-in theatres	200 or more motor vehicles	50 or more motor vehicles
Drive-in take away food outlets	200 or more motor vehicles	Any size or capacity
Educational establishments	50 or more students	
Freight intermodal facilities and freight terminals	Any size or capacity	
Heliports, airports or aerodromes	Any size or capacity	
Hospital	200 or more beds	100 or more beds
Industry	20,000m <sup>2</sup> in area	5,000m <sup>2</sup> in area
Landfill, recycling facilities, waste transfer station	Any size or capacity	
Motor showrooms	200 or more motor vehicles	50 or more motor vehicles
Parking	200 or more motor vehicles	50 or more motor vehicles
Places of assembly or places of public worship	200 or more motor vehicles	50 or more motor vehicles
Premises licensed under the <a href="#">Liquor Act 1982</a> or the <a href="#">Registered Clubs Act 1976</a>	200 or more motor vehicles	50 or more motor vehicles
Refreshment rooms	200 or more motor vehicles	300m <sup>2</sup>

Roadside stalls, where only primary products produced on the property on which the building or place is situated are exposed or offered for sale	200 or more motor vehicles	Any size or capacity
Service stations (including service stations which have retail outlets)	200 or more motor vehicles	Any size or capacity
Shops	2,000m <sup>2</sup>	500m <sup>2</sup>
Shops and commercial premises	4,000m <sup>2</sup>	1,000m <sup>2</sup>
Subdivision of land	200 or more allotments where the subdivision includes the opening of a public road	50 or more allotments
Tourist facilities, recreation facilities, showgrounds or sportsgrounds	200 or more motor vehicles	50 or more motor vehicles
Transport terminals, bulk stores, container depots or liquid fuel depots	8,000m <sup>2</sup>	
Any other purpose	200 or more motor vehicles	

### Schedule 3A Exempt and complying development in relation to telecommunications facilities

(Clauses 116 and 116A (1))

#### Part 1 Exempt development

Column 1	Column 2
Item Development purpose	Development standards
1 Subscriber and non-subscriber connection to a telecommunications network deployed by means of radio or satellite dish (including a radiocommunications dish)	<p>1.1 If the development is carried out on land in Zone R1, R2, R3, R4, R5 or RU5 or an equivalent land use zone or on a dwelling:</p> <p>(a) in the case of a dish located on a roof—the dish must not be more than 1.2 metres in diameter and be no higher than 1.8 metres above the highest point of the roof, or</p> <p>(b) in the case of a ground mounted dish—the dish must:</p> <p>(i) be located in the rear yard, and</p> <p>(ii) be not more than 1.2 metres in diameter, and</p> <p>(iii) be no higher than 1.8 metres above the highest point of the existing ground level on the lot.</p>

- 1.2 If the development is not carried out on land in Zone R1, R2, R3, R4, R5 or RU5 or an equivalent land use zone or on a dwelling, the dish must be no more than 1.8 metres in diameter.
      - 1.3 The dish must be the same colour as its background or painted a neutral colour such as grey.
      - 1.4 If the dish is mounted on a heritage item or in a heritage conservation area, the dish must not be visible from the street at ground level from the property boundary.
    - 2.1 The antenna:
      - (a) must be flush mounted to an existing structure, or
      - (b) if not flush mounted, must not be:
        - (i) more than 2.8 metres long, or
        - (ii) more than 5.8 metres (including support mount) in height above the building or structure to which it is attached.
    - 2.2 If the antenna is flush mounted, it must not project above the height of the structure on which it is mounted.
    - 2.3 The antenna must be the same colour as its background or painted a neutral colour such as grey.
    - 2.4 If the antenna is mounted on a heritage item or in a heritage conservation area other than by means of flush mounting, the antenna must not be visible from the street at ground level from the property boundary.
  - 2 Panel antenna, yagi antenna or other directional antenna
- 3.1 An antenna must not be:
    - (a) more than 4.5 metres long excluding support mount, or
    - (b) outrigged more than 500 millimetres from the support mount, or
    - (c) more than 6.5 metres in height including support mount unless required for the NSW Government Radio Network in which case must not be more than 8.0 metres in height including support mount.
  - 3.2 If an antenna is mounted on a heritage item or in a heritage conservation area, the antenna must not be visible from the street at ground level from the property boundary.
- 3 Omnidirectional antenna

- 4 Microcell installation
- 4.1 If the installation includes a cabinet, the cabinet must be not more than 1 cubic metre in volume.
- 4.2 If the installation includes an omnidirectional antenna, the antenna must not be more than 1 metre long.
- 4.3 If the installation includes a directional antenna, the antenna must not be more than 1.2 metres long.
- 5 In-building coverage installation (picocell installation) for the purposes of improving broadband coverage to wireless technology users or the coverage of mobile phone users operating inside the building
- 5.1 All elements of the installation must be wholly located within a building, structure or tunnel, or integrated with the building, structure or tunnel in such a way as to have the general appearance of being part of the structure.
- 6 Equipment installed inside a structure
- 6.1 Equipment installed inside a structure (including an antenna and fibre-optic cable) must be concealed in the existing structure.
- 7 An extension to a tower on land other than in Zone R1, R2, R3, R4, R5 or RU5 or an equivalent land use zone
- 7.1 The extension must be:
- (a) no greater than 5 metres in height, and
  - (b) for co-location purposes.
- 7.2 The tower to be extended must not have previously been extended.
- 8 Replacement of a tower
- 8.1 If the original tower is located on land in Zone R1, R2, R3, R4, R5 or RU5 or an equivalent land use zone:
- (a) the height of a replacement tower (including telecommunications facilities) must not be greater than the height of the original tower (including telecommunications facilities), and
  - (b) the replacement tower must be located within 10 metres of the position of the original tower.
- 8.2 If the original tower is not located on land in Zone R1, R2, R3, R4, R5 or RU5 or an equivalent land use zone:
- (a) the height of a replacement tower (including telecommunications facilities) must not be greater than the height of the original tower (including telecommunications facilities), and
  - (b) the replacement tower must be located within 20 metres of the position of the original tower but no closer to land in Zone R1, R2, R3, R4, R5 or RU5 or an equivalent land use zone.

- 8.3 The replacement tower must be similar in appearance to the original tower, except that a lattice tower (free standing steel framework tower) may be replaced by a monopole tower (free standing mast or pole like tower).
- 8.4 The original tower must be decommissioned and removed within 12 weeks of the telecommunications equipment on the replacement tower being commissioned.
- 8.5 The location of the tower that has been removed must be restored to a condition that is similar to its condition before the original tower was installed and landscaped as appropriate.
- 9 Underground housing
- 9.1 If the housing is in the form of a pit, manhole or other underground equipment shelter or housing, the opening area for the pit, manhole, shelter or housing must be not more than 2 square metres.
- 9.2 The land on which the housing is located must be restored to a condition that is similar to its condition before the underground housing was constructed.
- Above ground housing of any of the following kinds:
- (a) a pillar, cabinet or pedestal installation,
- (b) an equipment shelter,
- (c) housing within a building for subscriber connection equipment,
- (d) if on land in Zone RU1, RU2, RU3, RU4, RU5 or RU6 or an equivalent land use zone—a solar panel used to power telecommunications equipment contained in the above ground housing.
- 10
- 10.1 If the development is a pillar, cabinet or pedestal installation, it must:
- (a) not be more than 2 metres high, and
- (b) have a base area of not more than 2 square metres.



- 10.2 If the development is an equipment shelter (other than an equipment shelter used solely to house equipment associated with any antenna, radiocommunications, satellite or microwave dish, or tower or the like), it must:
- (a) not be more than 2.5 metres high, and
  - (b) have a base area of not more than 5 square metres (excluding minor protrusions such as air conditioning units, steps and cable tray attachments), and
  - (c) be the same colour as its background or painted a neutral colour such as grey.

- 10.3 If the development is an equipment shelter used solely to house equipment associated with any antenna, radiocommunications, satellite or microwave dish, or tower or the like, it must:
- (a) not be more than 3 metres high, and
  - (b) have a base area of not more than 7.5 square metres (excluding minor protrusions such as air conditioning units, steps and cable tray attachments), and
  - (c) be the same colour as its background or painted a neutral colour such as grey.

- 10.4 If the development is a solar panel used to power telecommunications equipment contained in the above ground housing, the base area of the panel must not be more than 7.5 square metres.

- 10.5 If the development is on a heritage item or in a heritage conservation area, it must not be visible from the street at ground level from the property boundary.

- 11.1 The conduit or cable may only be:

- (a) laid in an existing trench, or
- (b) laid in a trench that has been lawfully created for any other purpose, or
- (c) hauled or otherwise deployed through a duct, pit, hole, tunnel or conduit, or
- (d) installed in, on or under an existing bridge.

- 11.2 A marking post or sign must be erected indicating the location of the conduit or cable.

11 Underground conduit or cable including subscriber connection and fibre-optic cable for broadband

- 11.3 After the conduit or cable has been laid, deployed or installed, detectable metallic tracer material or similar material must be installed in or above the conduit or cable to assist with identifying the position of the conduit or cable.
- 11.4 The land under which the conduit or cable is installed must be restored to a condition that is similar to its condition before the conduit or cable was installed.
- 12 Above ground cable for subscriber connection or fibre-optic cable for broadband for pole to premises installation
- 12.1 The cable must be co-located with an above ground electricity supply connection.
- 13 Conduit or cable within a building for subscriber connection or fibre-optic cable for broadband
- 14 Boring or directional drilling in connection with a telecommunications facility
- 14.1 The boring or directional drilling must take place at a minimum depth of 600 millimetres.
- 14.2 The land on which the boring or drilling is carried out must be restored to a condition that is similar to its condition before the drilling was carried out.
- 15 Public payphone
- 15.1 The public payphone cabinet or booth must:
- (a) be for use solely for carriage and content services, and
  - (b) not be designed for other uses (for example, as a vending machine), and
  - (c) not be fitted with devices or facilities for other uses, and
  - (d) not display commercial advertising other than advertising related to the supply of standard telephone services.
- 15.2 The public payphone instrument must:
- (a) be for use solely for carriage and content services, and
  - (b) not be designed for other uses (for example, as a vending machine), and
  - (c) not be fitted with devices or facilities for other uses, and
  - (d) not be used to display commercial advertising other than advertising related to the supply of standard telephone services or displayed as part of the supply of a content service.

- 16 Installation and use of telecommunications facilities:  
(a) for use in an emergency, or  
(b) to provide assistance to an emergency services organisation.
- 17 Installation and use of temporary telecommunications facilities:  
(a) to provide service or coverage during either routine or emergency maintenance of an existing telecommunications facility, or  
(b) to provide service or coverage during the construction or installation of a replacement telecommunications facility, or  
(c) to provide additional service or coverage at events such as sporting carnivals, cultural festivals, business conventions, or the like.
- 18 Ancillary facilities to a telecommunications facility for any of the following purposes:  
(a) to ensure the protection or safety of the telecommunications facility, members of the public in close proximity to that facility or persons required to access and maintain that facility,  
(b) to screen or shroud antennas or telecommunications equipment (or both) to minimise their visibility and improve visual outcomes.
- 17.1 The facility must:  
(a) not permanently alter any building or site so that, upon removal, the building or site is in a substantially different condition than it was before the establishment of the facility, and  
(b) be removed within 28 days after the need for the facility has ceased.
- 18.1 If located on a heritage item or in a heritage conservation area, the facilities must not be visible from the street at ground level from the property boundary.
- 18.2 The facilities must not include a power generator.

- 19 Maintenance activities in relation to a telecommunications facility for any of the following purposes:
- (a) the maintenance or repair of the facility,
  - (b) to ensure the proper functioning of the facility.
- 19.1 The maintenance activities must not result in any more than a minimal increase in size, area occupied by, or noise levels associated with the facility.
- 20 Installation and use of permanent transmission and power cabling (including underground cabling that meets the development standards for underground cable or boring or directional drilling under this Schedule) to enable installation and removal of temporary telecommunications facilities for the purpose of providing additional service or coverage at events such as sporting carnivals, cultural festivals or business conventions, or the like, on the site.

## Part 2 Complying development

	Column 1	Column 2
Item	Development purpose	Development standards
1	Subscriber and non-subscriber connection to a telecommunications network deployed by means of radio or satellite dish (including a radiocommunications dish) on land in Zone R1, R2, R3, R4, R5 or RU5 or an equivalent land use zone	<p>1.1 If the dish is located on a roof, the dish must:</p> <ul style="list-style-type: none"> <li>(a) not be more than 1.8 metres in diameter, and</li> <li>(b) be no higher than 2.4 metres above the highest point of the roof.</li> </ul> <p>1.2 If the dish is ground mounted, the dish must:</p> <ul style="list-style-type: none"> <li>(a) be located in the rear yard, and</li> <li>(b) not be more than 1.8 metres in diameter, and</li> <li>(c) be no higher than 2.4 metres above the highest point of the existing ground level on the lot.</li> </ul> <p>1.3 The dish must be the same colour as its background or painted a neutral colour such as grey.</p> <p>1.4 If located in a heritage conservation area, the dish must not be visible from the street at ground level from the property boundary.</p>

- 2 A panel antenna, yagi antenna or other directional antenna on land other than in Zone R1, R2, R3, R4, R5 or RU5 or an equivalent land use zone
- 2.1 If the antenna is not flush mounted to an existing structure:
- (a) the antenna must not be more than 2.8 metres long, and
  - (b) the antenna must not be more than 8 metres (including support mount) in height above the building or structure to which it is attached, and
  - (c) if located in a heritage conservation area—the antenna must not be visible from the street at ground level from the property boundary.
- 2.2 The antenna must be the same colour as its background or painted a neutral colour such as grey.
- 3 An omnidirectional antenna on land other than in Zone R1, R2, R3, R4, R5 or RU5 or an equivalent land use zone
- 3.1 An antenna must not be:
- (a) more than 8.5 metres in height, and
  - (b) outrigged more than 500 millimetres from the support mount.
- 3.2 The antenna must be the same colour as its background or painted a neutral colour such as grey.
- 3.3 If located in a heritage conservation area, the antenna must not be visible from the street at ground level from the property boundary.
- 4 An extension to a tower on land other than in Zone R1, R2, R3, R4, R5 or RU5 or an equivalent land use zone
- 4.1 The extension must be:
- (a) no greater than 7.5 metres in height, and
  - (b) for co-location purposes.
- 4.2 The tower to be extended must not have previously been extended.
- 5 New tower on land in Zone IN1, IN2, IN3, RU1, RU2, RU3 or RU4 or an equivalent land use zone
- 5.1 If the tower is located on land in Zone IN1, IN2 or IN3 or an equivalent land use zone, the tower must not:
- (a) be located within 100 metres of a Zone R1, R2, R3, R4, R5 or RU5 or equivalent land use zone boundary, or
  - (b) exceed 25 metres in height (including telecommunications facilities) where located between 100 and 150 metres from a Zone R1, R2, R3, R4, R5 or RU5 or equivalent land use zone boundary, or
  - (c) exceed 30 metres in height (including telecommunications facilities), where located more than 150 metres from a Zone R1, R2, R3, R4, R5 or RU5 or equivalent land use zone boundary.

- 5.2 If the tower is located on land in Zone RU1, RU2, RU3 or RU4 or an equivalent land use zone, the tower must not:
- (a) be located within 100 metres of a Zone R1, R2, R3, R4, R5 or RU5 or equivalent land use zone boundary, and
  - (b) exceed 25 metres in height (including telecommunications facilities) where located between 100 and 150 metres from a Zone R1, R2, R3, R4, R5 or RU5 or equivalent land use zone boundary, and
  - (c) exceed 50 metres in height (including telecommunications facilities), where located more than 150 metres from a Zone R1, R2, R3, R4, R5 or RU5 or equivalent land use zone boundary.
- 6 Ancillary facilities to a telecommunications facility
- 6.1 If located in a heritage conservation area, the facilities must not be visible from the street at ground level from the property boundary.
- 6.2 If the facilities include a standby power generator, it must be insulated to ensure noise levels do not exceed 35dB(A) from outside the generator housing.

## Schedule 4 Repeals

(Clause 10 (1))

*State Environmental Planning Policy No 3—Castlereagh Liquid Waste Disposal Depot*

*State Environmental Planning Policy No 7—Port Kembla Coal Loader*

*State Environmental Planning Policy No 8—Surplus Public Land*

*State Environmental Planning Policy No 9—Group Homes*

*State Environmental Planning Policy No 11—Traffic Generating Developments*

*State Environmental Planning Policy No 16—Tertiary Institutions*

*State Environmental Planning Policy No 27—Prison Sites*

*State Environmental Planning Policy No 31—Sydney (Kingsford Smith) Airport*

*State Environmental Planning Policy No 35—Maintenance Dredging of Tidal Waterways*

*State Environmental Planning Policy No 43—New Southern Railway*

*State Environmental Planning Policy No 48—Major Putrescible Landfill Sites*

*State Environmental Planning Policy No 51—Eastern Distributor*

*State Environmental Planning Policy No 54—Northside Storage Tunnel*

*State Environmental Planning Policy No 61—Exempt and Complying Development for White Bay and Glebe Island Ports*

*State Environmental Planning Policy No 63—Major Transport Projects*

*State Environmental Planning Policy No 67—Macquarie Generation Industrial Development Strategy*

*State Environmental Planning Policy No 69—Major Electricity Supply Projects*

*State Environmental Planning Policy No 72—Linear Telecommunications Development—Broadband*

*State Environmental Planning Policy (ARTC Rail Infrastructure) 2004*

*State Environmental Planning Policy (Sydney Metropolitan Water Supply) 2004*

## **Schedule 5 Savings and transitional provisions**

### **1 Telecommunications amendments**

- (1) The amendments made to this Policy by the *State Environmental Planning Policy (Infrastructure) Amendment (Telecommunications) 2010* (the **amending Policy**) do not apply to:
  - (a) development for which an application for development consent was lodged, or the carrying out of development that was commenced, before the commencement of the amending Policy, or
  - (b) an activity under Part 5 of the Act that was commenced to be considered by the determining authority (not being the proponent of the activity) before the commencement of the amending Policy.
- (2) Despite subclause (1), the amendments made by Schedule 1 [8], [9] and [11] to the amending Policy apply to development or an activity referred to in subclause (1) (a) or (b).

### **2 Application of amendments made by State Environmental Planning Policy (Infrastructure) Amendment (Miscellaneous) 2010**

- (1) In this clause, **amending Policy** means *State Environmental Planning Policy (Infrastructure) Amendment (Miscellaneous) 2010*.
- (2) Except as provided by subclause (2), an amendment made to this Policy by the amending Policy does not apply to:
  - (a) development for which an application for development consent was lodged, or the carrying out of development that was commenced, before the commencement of the amendment, or
  - (b) an activity under Part 5 of the Act that a determining authority commenced to consider before the commencement of the amendment.

- (3) The amendments made by Schedule 1 [31] and [46] to the amending Policy extend to development or an activity referred to in subclause (2).
- (4) The amendments made to *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* by the amending Policy extend to applications for development consent lodged, but not determined, before the commencement of the amending Policy.

### **3 Savings and transitional provisions—site compatibility amendments**

Clauses 18 and 57, as amended by *State Environmental Planning Policy (Repeal of Site Compatibility Provisions) 2011*, apply to development applications for development to which those clauses apply that were made, but not determined, before the commencement of the amendments.