

# State Environmental Planning Policy (Western Sydney Employment Area) 2009

[2009-413]



New South Wales

## Status Information

### Currency of version

Historical version for 2 October 2020 to 21 January 2021 (accessed 15 October 2024 at 21:16)

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**  
[Statute Law \(Miscellaneous Provisions\) Act 2020 No 30](#), Sch 4.100 (not commenced — to commence on 22.1.2021)

### 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 27 October 2020

# State Environmental Planning Policy (Western Sydney Employment Area) 2009



New South Wales

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# State Environmental Planning Policy (Western Sydney Employment Area) 2009



New South Wales

## Part 1 Preliminary

### 1 Name of Policy

This Policy is *State Environmental Planning Policy (Western Sydney Employment Area) 2009*.

### 2 Commencement

This Policy commences on the day on which it is published on the NSW legislation website.

### 3 Aims of Policy

- (1) This Policy aims to protect and enhance the land to which this Policy applies (the **Western Sydney Employment Area**) for employment purposes.
- (2) The particular aims of this Policy are as follows—
  - (a) to promote economic development and the creation of employment in the Western Sydney Employment Area by providing for development including major warehousing, distribution, freight transport, industrial, high technology and research facilities,
  - (b) to provide for the co-ordinated planning and development of land in the Western Sydney Employment Area,
  - (c) to rezone land for employment, environmental conservation or recreation purposes,
  - (d) to improve certainty and regulatory efficiency by providing a consistent planning regime for future development and infrastructure provision in the Western Sydney Employment Area,
  - (e) to ensure that development occurs in a logical, environmentally sensitive and cost-effective manner and only after a development control plan (including specific development controls) has been prepared for the land concerned,

- (f) to conserve and rehabilitate areas that have a high biodiversity or heritage or cultural value, in particular areas of remnant vegetation.

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

- (1) Except as provided in subclause (2), this Policy applies to the land identified on the [Land Application Map](#).
- (2) This Policy does not apply to the land marked “X” that is within the boundary of the land identified on the [Land Application Map](#) as the Broader Western Sydney Employment Area.

**Note—**

The [Land Application Map](#) shows the subject land divided into the following precincts—

- (a) Precinct 1 (Former Wonderland),
- (b) Precinct 2 (Eastern Creek),
- (c) Precinct 3 (Huntingwood),
- (d) Precinct 4 (Raceway),
- (e) Precinct 6 (Ropes Creek),
- (f) Precinct 7 (Erskine Park Employment Lands),
- (g) Precinct 8 (South of Sydney Catchment Authority Warragamba Pipelines),
- (h) Precinct 9 (Quarantine Station),
- (i) Precinct 10 (Greystanes Northern Employment Lands),
- (j) Precinct 11 (Broader Western Sydney Employment Area),
- (k) Precinct 12 (Mamre Road),
- (l) Precinct 13 (Mamre West).

#### **5 Definitions and notes**

- (1) The words and phrases used in this Policy have the same meanings as they have in the standard instrument prescribed under section 3.20 of the Act unless otherwise defined in the Dictionary at the end of this Policy.
- (2) Notes in this Policy are provided for guidance and do not form part of this Policy.

#### **6 Consent authority**

For the purposes of this Policy, the consent authority for development of land to which this Policy applies is, subject to the Act, the council (referred to in this Policy as ***the relevant council***) of the local government area in which the land is situated.

**Note—**

The approval of the Minister may also be required for the carrying out of development that is State significant development, under Part 4 of the Act.

## 7 Maps

- (1) A reference in this Policy to a named map adopted by this Policy is a reference to a map by that name—
  - (a) approved by the Minister when the map is adopted, and
  - (b) as amended or replaced from time to time by maps declared by environmental planning instruments to amend or replace that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Policy to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.
- (4) For the purposes of this Policy, a map may be in, and may be kept and made available in, electronic or paper form, or both.

## 8 Relationship to other environmental planning instruments

- (1) *State Environmental Planning Policy No 1—Development Standards* does not apply to the land to which this Policy applies.
- (2) **This Policy to prevail over LEPs** In the event of an inconsistency between this Policy and a local environmental plan or deemed environmental planning instrument that applies to the land to which this Policy applies, this Policy prevails to the extent of the inconsistency.

### 8A Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development to be carried out in accordance with this Policy or with a consent granted under the Act, an agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) This clause does not apply—
  - (a) to a covenant imposed by the relevant council or that the relevant council requires to be imposed, or
  - (b) to a biodiversity certification conferred under Part 8 of the *Biodiversity Conservation Act 2016*, or

- (c) to a private land conservation agreement within the meaning of the *Biodiversity Conservation Act 2016*, or
  - (d) to a relevant instrument within the meaning of section 13.4 of the *Crown Land Management Act 2016*, or
  - (e) to the relevant provisions of a land management (native vegetation) code (and the necessary mandatory code compliant certificate) with respect to a set aside area under Part 5A of the *Local Land Services Act 2013*, or
  - (f) to a conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
  - (g) to a property vegetation plan within the meaning of the *Native Vegetation Act 2003* that is continued in force by the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*, or
  - (h) to a Trust agreement within the meaning of the *Nature Conservation Trust Act 2001* that is continued in force by the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*, or
  - (i) to a planning agreement within the meaning of Division 7.1 of the Act.
- (3) This clause does not affect the rights or interests of a public authority under a registered instrument.
- (4) Under section 3.16 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).

## **Part 2 Permitted or prohibited development**

### **9 Land use zones**

The land use zones under this Policy are as follows—

- (a) IN1 General Industrial,
- (b) IN2 Light Industrial,
- (c) E2 Environmental Conservation,
- (d) SP2 Infrastructure,
- (e) RE1 Public Recreation,
- (f) RE2 Private Recreation.

### **10 Zoning of land to which Policy applies**

For the purposes of this Policy, land is within the zones shown on the [Land Zoning Map](#).



## **11 Zone objectives and land use table**

- (1) The Table at the end of this clause specifies for each zone—
  - (a) the objectives for development, and
  - (b) development that may be carried out without consent, and
  - (c) development that may be carried out only with consent, and
  - (d) development that is prohibited.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.
- (3) In the Table at the end of this clause—
  - (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and
  - (b) a reference to a type of building or other thing does not include (despite any definition in this Policy) a reference to a type of building or other thing referred to separately in the Table in relation to the same zone.
- (4) This clause is subject to the other provisions of this Policy.

### Land Use Table

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

##### **1 Objectives of zone**

- To facilitate a wide range of employment-generating development including industrial, manufacturing, warehousing, storage and research uses and ancillary office space.
- To encourage employment opportunities along motorway corridors, including the M7 and M4.
- To minimise any adverse effect of industry on other land uses.
- To facilitate road network links to the M7 and M4 Motorways.
- To encourage a high standard of development that does not prejudice the sustainability of other enterprises or the environment.
- To provide for small-scale local services such as commercial, retail and community facilities (including child care facilities) that service or support the needs of employment-generating uses in the zone.

## **2 Permitted without consent**

Nil.

## **3 Permitted with consent**

Building identification signs; Business identification signs; Depots; Environmental facilities; Environmental protection works; Food and drink premises; Freight transport facilities; Garden centres; Hardware and building supplies; Industrial retail outlets; Industrial training facilities; Industries (other than offensive or hazardous industries); Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Roads; Service stations; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres.

## **4 Prohibited**

Any development not specified in item 2 or 3.

### **Zone IN2 Light Industrial**

#### **1 Objectives of zone**

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.
- To minimise any adverse effect of development on the natural environment.

#### **2 Permitted without consent**

Nil

### **3 Permitted with consent**

Aquaculture; Building identification signs; Business identification signs; Depots; Food and drink premises; Funeral homes; Garden centres; Hardware and building supplies; Heliports; Industrial training facilities; Kiosks; Light industries; Neighbourhood shops; Recreation areas; Recreation facilities (indoor); Roads; Storage premises; Vehicle repair stations; Vehicle sales or hire premises; Warehouse or distribution centres; Any development not specified in item 2 or 4

### **4 Prohibited**

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat building and repair facilities; Camping grounds; Caravan parks; Cemeteries; Commercial premises; Correctional centres; Crematoria; Eco-tourist facilities; Educational establishments; Entertainment facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Function centres; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Industries; Information and education facilities; Marinas; Open cut mining; Port facilities; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Restricted premises; Rural industries; Sewerage systems; Signage; Tourist and visitor accommodation; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Waste or resource management facilities; Water recreation structures; Wharf or boating facilities; Wholesale supplies

## **Zone E2 Environmental Conservation**

### **1 Objectives of zone**

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

### **2 Permitted without consent**

Nil.

### **3 Permitted with consent**

Artificial waterbodies; Environmental facilities; Environmental protection works; Flood mitigation works; Roads.

### **4 Prohibited**

Any development not specified in item 2 or 3.

## **Zone SP2 Infrastructure**

### **1 Objectives of zone**

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

### **2 Permitted without consent**

Nil

### **3 Permitted with consent**

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

### **4 Prohibited**

Any development not specified in item 2 or 3

## **Zone RE1 Public Recreation**

### **1 Objectives of zone**

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To provide a transition between industrial development and the Wianamatta-South Creek Precinct.
- To provide land for the development of services and facilities by public

authorities for the benefit of the community.

## **2 Permitted without consent**

Nil

## **3 Permitted with consent**

Aquaculture; Car parks; Community facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Function centres; Information and education facilities; Kiosks; Markets; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Restaurants or cafes; Roads; Water storage facilities

## **4 Prohibited**

Any development not specified in item 2 or 3

### **Zone RE2 Private Recreation**

#### **1 Objectives of zone**

- To enable land to be used for private open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To enable development that does not increase the risk of natural hazards of the surrounding land (including, but not limited to, bush fire and flooding).

#### **2 Permitted without consent**

Nil

#### **3 Permitted with consent**

Aquaculture; Building identification signs; Car parks; Community facilities; Environmental facilities; Environmental protection works; Food and drink premises; Function centres; Information and education facilities; Kiosks; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Roads

## **4 Prohibited**

Any development not specified in item 2 or 3

### **12 (Repealed)**

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

- (1) Development on particular land that is described or referred to in Schedule 1 may be carried out—
  - (a) with consent, or
  - (b) if that Schedule so provides—without consent,in accordance with the conditions (if any) specified in that Schedule in relation to that development.
- (2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Policy.

### **14 Subdivision—consent requirements**

- (1) Land to which this Policy applies may be subdivided, but only with consent.
- (2) However, consent is not required for a subdivision for the purpose only of any one or more of the following—
  - (a) widening a public road,
  - (b) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
  - (c) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
  - (d) rectifying an encroachment on a lot,
  - (e) creating a public reserve,
  - (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.

#### **Note—**

If a subdivision is exempt development, the Act enables the subdivision to be carried out without consent.

*State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* specifies certain subdivision development as exempt development.

## **15 Centre-based child care facilities**

Despite any other provision of this Policy, except for clause 33D(4), a person may, with consent, carry out development for the purposes of a centre-based child care facility on land to which this Policy applies.

### **15A Demolition requires development consent**

The demolition of a building or work may be carried out only with development consent.

**Note—**

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

### **15B Temporary use of land**

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

### **15C Conversion of fire alarms**

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

***private service provider*** means a person or body that has entered into an agreement that is in force with Fire and Rescue NSW to monitor fire alarm systems.

## **Part 3**

### **16, 17 (Repealed)**

## **Part 4 Development control plans**

### **18 Requirement for development control plans**

- (1) Except in such cases as the Secretary may determine by notice in writing to the consent authority or as provided by clause 19, the consent authority must not grant consent to development on any land to which this Policy applies unless a development



control plan has been prepared for that land.

- (2) The requirements specified in Schedule 4 apply in relation to any such development control plan.
- (3) For the purposes of section 3.44 (3) of the Act, a development control plan that is required by this clause may be prepared and submitted by 60% of the owners of the land to which the plan applies.
- (4) The Minister is authorised, for the purposes of section 3.44 (5) (b) of the Act, to act in the place of the relevant planning authority in accordance with that section.
- (5) Without limiting subclause (2), if a development control plan is required to be prepared for part of a precinct only, the development control plan must—
  - (a) demonstrate the manner in which it integrates with planning for the whole of the precinct, and
  - (b) take into account any other development control plans applying to the precinct.
- (6) For the purposes of this clause, a development control plan is taken to have been prepared for so much of the land to which this Policy applies as is identified as the “Erskine Park Employment Area” under the *Penrith Development Control Plan 2006* (approved 21 August 2006 and as in force on 15 December 2006).

#### **19 Existing precinct plans under SEPP 59**

- (1) The consent authority may grant consent to development on any land to which this Policy applies without a development control plan being prepared for that land if the consent authority is satisfied that an existing precinct plan applied to the land immediately before the repeal of *State Environmental Planning Policy No 59—Central Western Sydney Regional Open Space and Residential*.
- (2) In determining a development application that relates to any land to which an existing precinct plan applies, the consent authority is to take the existing precinct plan into consideration.
- (3) In this clause, **existing precinct plan** means any of the following Precinct plans prepared under *State Environmental Planning Policy No 59—Central Western Sydney Economic and Employment Area* and in force as at the commencement of this Policy—
  - (a) Lot 11 Precinct Plan (Blacktown LGA), approved October 2005,
  - (b) Eastern Creek Precinct Plan (Blacktown LGA), approved March 2004 (stages 1 and 2) and December 2005 (stage 3),
  - (c) Raceway Precinct Plan (Blacktown LGA), approved 15 November 2006,
  - (d) Greystanes Estate Employment Lands Precinct Plan, approved June 2001,

- (e) Former CSIRO Site, Pemulway Employment Land Precinct Plan, approved 20 September 2005.

**Note—**

*State Environmental Planning Policy No 59—Central Western Sydney Economic and Employment Area* was renamed as *State Environmental Planning Policy No 59—Central Western Sydney Regional Open Space and Residential*.

## **Part 5 Principal development standards**

### **20 Ecologically sustainable development**

The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that the development contains measures designed to minimise—

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

### **21 Height of buildings**

The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that—

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

### **22 Rainwater harvesting**

The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that adequate arrangements will be made to connect the roof areas of buildings to such rainwater harvesting scheme (if any) as may be approved by the Secretary.

### **23 Development adjoining residential land**

- (1) This clause applies to any land to which this Policy applies that is within 250 metres of land zoned primarily for residential purposes.
- (2) The consent authority must not grant consent to development on land to which this clause applies unless it is satisfied that—
  - (a) wherever appropriate, proposed buildings are compatible with the height, scale, siting and character of existing residential buildings in the vicinity, and
  - (b) goods, plant, equipment and other material resulting from the development are to be stored within a building or will be suitably screened from view from residential

buildings and associated land, and

- (c) the elevation of any building facing, or significantly exposed to view from, land on which a dwelling house is situated has been designed to present an attractive appearance, and
- (d) noise generation from fixed sources or motor vehicles associated with the development will be effectively insulated or otherwise minimised, and
- (e) the development will not otherwise cause nuisance to residents, by way of hours of operation, traffic movement, parking, headlight glare, security lighting or the like, and
- (f) the development will provide adequate off-street parking, relative to the demand for parking likely to be generated, and
- (g) the site of the proposed development will be suitably landscaped, particularly between any building and the street alignment.

#### **24 Development involving subdivision**

The consent authority must not grant consent to the carrying out of development involving the subdivision of land unless it has considered the following—

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

#### **25 Public utility infrastructure**

- (1) The consent authority must not grant consent to development on land to which this Policy applies unless it is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.
- (2) In this clause, **public utility infrastructure** includes infrastructure for any of the following—
  - (a) the supply of water,
  - (b) the supply of electricity,
  - (c) the supply of natural gas,
  - (d) the disposal and management of sewage.
- (3) This clause does not apply to development for the purpose of providing, extending,

augmenting, maintaining or repairing any public utility infrastructure referred to in this clause.

## **26 Development on or in vicinity of proposed transport infrastructure routes**

- (1) This clause applies to any land to which this Policy applies that is situated on or in the vicinity of a proposed transport infrastructure route as shown on the [Transport and Arterial Road Infrastructure Plan Map](#).
- (2) The consent authority must refer to the Secretary of the Department of Planning any application for consent to carry out development on land to which this clause applies.
- (3) The consent authority must, before determining any such development application, consider any comments made by the Secretary as to the compatibility of the development to which the application relates with the proposed transport infrastructure route concerned.

## **27 Exceptions to development standards**

- (1) The objectives of this clause are—
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Consent must not be granted for development that contravenes a development standard unless—
  - (a) the consent authority is satisfied that—
    - (i) the applicant's written request has adequately addressed the matters required

to be demonstrated by subclause (3), and

- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - (b) the concurrence of the Secretary has been obtained.
- (5) In deciding whether to grant concurrence, the Secretary must consider—
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.
- (6) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (7) This clause does not allow consent to be granted for development that would contravene—
- (a) a development standard for complying development, or
  - (b) clause 29 or 30.

## Part 6 Miscellaneous provisions

### 28 Relevant acquisition authority

- (1) The objective of this clause is to identify, for the purposes of section 3.15 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991* (**the owner-initiated acquisition provisions**).

**Note—**

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

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

to land required to be so acquired, the authority designated or determined under those provisions).

<b>Type of land shown on Map</b>	<b>Authority of the State</b>
Zone SP2 Infrastructure and marked "Classified road"	Roads and Maritime Services
Zone RE1 Public Recreation and marked "Local Open Space"	Penrith City Council

- (3) Development on land acquired by an authority of the State under the owner-initiated acquisition provisions may, before it is used for the purpose for which it is reserved, be carried out, with development consent, for any purpose.

## **29 Industrial Release Area—satisfactory arrangements for the provision of regional transport infrastructure and services**

- (1) This clause applies to the land shown edged heavy black on the [Industrial Release Area Map](#), but does not apply to any such land if the whole or any part of it is in a special contributions area (as defined by section 7.1 of the Act).
- (2) The object of this clause is to require assistance to authorities of the State towards the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network) to satisfy needs that arise from development on land to which this clause applies.
- (3) Despite any other provision of this Policy, the consent authority must not consent to development on land to which this clause applies unless the Secretary has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network) in relation to the land to which this Policy applies.
- (4) Subclause (3) only applies if the land that is the subject of the application for development consent was not being used for industrial purposes immediately before the application was made.
- (5) Subclause (3) does not apply in relation to—
  - (a) any land that is reserved exclusively for a public purpose, or
  - (b) any development that is, in the opinion of the consent authority, of a minor nature.

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

- (1) **Industrial retail outlets** If development for the purposes of an industrial retail outlet is permitted under this Policy, the retail floor area must not exceed—

(a) 20% of the combined gross floor area of the industrial retail outlet and the building or place on which the relevant industry is carried out, or

(b) 400 square metres,

whichever is the lesser.

(2) **Neighbourhood shops** If development for the purposes of a neighbourhood shop is permitted under this Policy, the retail floor area must not exceed 200 square metres.

### 31 Design principles

In determining a development application that relates to land to which this Policy applies, the consent authority must take into consideration whether or not—

(a) the development is of a high quality design, and

(b) a variety of materials and external finishes for the external facades are incorporated, and

(c) high quality landscaping is provided, and

(d) the scale and character of the development is compatible with other employment-generating development in the precinct concerned.

### 32 Preservation of trees or vegetation

(1) The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation.

(2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made under Division 3.6 of the Act.

#### **Note—**

Any such development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.

(3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by—

(a) development consent, or

(b) a permit granted by the Secretary as the relevant planning authority for the purposes of Division 3.6 of the Act.

(4) This clause does not apply to a tree or other vegetation that the relevant council or the Secretary (as the relevant planning authority for the purposes of Division 3.6 of the Act) is satisfied—

- (a) is dying or dead and is not required as the habitat of native fauna, or
  - (b) is a risk to human life or property.
- (5) This clause does not apply to or in respect of—
- (a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003* or that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or
  - (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause, or
  - (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or
  - (d) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying Act 2002*, or
  - (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

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

- (1) This Policy does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out without consent, or that is exempt development, under the *State Environmental Planning Policy (Infrastructure) 2007*.
- (2) 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.

#### **33A Development near zone boundaries**

- (1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone.
- (2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The **relevant distance** is—
  - (a) in the case of a boundary to land zoned E2 Environmental Conservation—20 metres, or
  - (b) in any other case—50 metres.
- (3) This clause does not apply to—



- (a) (Repealed)
  - (b) land within the coastal zone, or
  - (c) land proposed to be developed for the purpose of sex services or restricted premises.
- (4) Despite the provisions of this Policy relating to the purposes for which development may be carried out, consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that—
- (a) the development is not inconsistent with the objectives for development in both zones, and
  - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and other planning principles relating to the efficient and timely development of land.
- (5) The clause does not prescribe a development standard that may be varied under this Policy.

### **33B Development of land within or adjacent to transport investigation area**

- (1) Consent must not be granted to development in the area marked “Transport Investigation Areas A and B” on the [Land Zoning Map](#) that has a capital investment value of more than \$200,000 without the concurrence of Transport for NSW.
- (2) In determining whether to provide concurrence, Transport for NSW is to take into account the likely effect of the development on—
- (a) the practicability and cost of carrying out transport projects on the land in the future, and
  - (b) without limiting paragraph (a), the structural integrity or safety of, or ability to operate, transport projects on the land in the future, and
  - (c) without limiting paragraph (a), the land acquisition costs and the costs of construction, operation or maintenance of transport projects on the land in the future, and
  - (d) in relation to Transport Investigation Area A—current or future development and operation of an intermodal terminal, including whether the development for which consent is sought is likely to impede access to or from an intermodal terminal.
- (3) In this clause—

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

***intermodal terminal*** means an area of land used to transfer freight between at least two modes of transport.

### **33C Development within the Mamre Road Precinct**

- (1) Consent must not be granted to development on the land identified on the [Land Application Map](#) as Precinct 12 (Mamre Road) that has a capital investment value of more than \$200,000 without the concurrence of Transport for NSW.
- (2) In determining whether to provide concurrence, Transport for NSW is to take into account the likely effect of the development on—
  - (a) the compatibility of the proposed development with the delivery of an integrated freight network, including use of fire access roads and connection to the fire access roads of adjoining land, and
  - (b) the operation of an integrated freight network, including whether the development is likely to impede access to or from the integrated freight network, and
  - (c) the practicability and cost of carrying out transport projects on the land in the future.
- (3) In this clause—

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

***integrated freight network*** means a network of transport corridors within the Mamre Road precinct that allow freight to be transported from an intermodal terminal (within the meaning of clause 33B) to development sites in the Mamre Road precinct.

### **33D Development in areas subject to aircraft noise**

- (1) The objectives of this clause are as follows—
  - (a) to prevent certain noise sensitive developments from being located near the Airport and its flight paths,
  - (b) to assist in minimising the impact of aircraft noise from the Airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,
  - (c) to ensure that land use and development in the vicinity of the Airport do not hinder, or have other adverse impacts on, the ongoing, safe and efficient operation of the Airport.
- (2) This clause applies to development—

- (a) on land that is—
    - (i) in the vicinity of the Airport and its flight paths, and
    - (ii) in either an ANEF contour of 20 or greater or an ANEC contour of 20 or greater, and
  - (b) that the consent authority considers is likely to be adversely affected by aircraft noise.
- (3) Before determining a development application for development to which this clause applies, the consent authority—
- (a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and
  - (b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021:2015, and
  - (c) must be satisfied that the development will meet the indoor design sound levels set out in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015.
- (4) Despite another provision of this Policy, development consent must not be granted to development on land to which this clause applies for the purposes of a place of public worship, a centre-based child care facility or a TAFE establishment or for residential development.
- (5) In this clause—

**ANEC contour** means a contour on the Australian Noise Exposure Concept Map for the Airport, published on the Department's website.

**ANEF contour** means a noise exposure contour shown as an ANEF contour on the Noise Exposure Forecast Contour Map for the Airport prepared by the Department of the Commonwealth responsible for airports.

**AS 2021:2015** means AS 2021:2015, *Acoustics—Aircraft noise intrusion—Building siting and construction*.

- (6) For the purposes of this clause, a reference to ANEF in AS 2021:2015 is taken to include a reference to ANEC.

### **33E Airspace operations**

- (1) The objectives of this clause are as follows—
- (a) to provide for the effective and ongoing operation of the Airport by ensuring that such operation is not compromised by proposed development that penetrates the

prescribed airspace for the Airport,

(b) to protect the community from undue risk from that operation.

- (2) If a development application is received and the consent authority is satisfied that the proposed development will penetrate the prescribed airspace, before granting development consent, the consent authority must consult with the relevant Commonwealth body about the application.
- (3) The consent authority may grant development consent for the development if the relevant Commonwealth body advises that—
- (a) the development will penetrate the prescribed airspace but it has no objection to its construction, or
- (b) the development will not penetrate the prescribed airspace.
- (4) To avoid doubt, the consent authority must not grant development consent for the development if the relevant Commonwealth body advises that the development will penetrate the prescribed airspace and should not be constructed.
- (5) In this clause—

**OLS** and **PANS-OPS surface** have the same meanings as in the [Airports \(Protection of Airspace\) Regulations 1996](#) of the Commonwealth.

**prescribed airspace** means the airspace—

- (a) above any part of either an OLS or a PAN-OPS surface for the Airport, and
- (b) declared under regulation 5 of the [Airports \(Protection of Airspace\) Regulations 1996](#) of the Commonwealth relating to the Airport, under section 181(1) of the [Airports Act 1996](#) of the Commonwealth.

**relevant Commonwealth body** means—

- (a) the airport-operator company for the Airport (within the meaning of the [Airports Act 1996](#) of the Commonwealth), or
- (b) if there is no airport-operator company for the Airport—the Secretary of the body, under Commonwealth legislation, that is responsible for development approvals for development that penetrates the prescribed airspace.

### **33F Development of land adjacent to Airport**

- (1) The objectives of this clause are as follows—
- (a) to provide for the effective and ongoing operation of the Airport by ensuring that such operation is not compromised by proposed development in close proximity to the Airport,

(b) to protect the community from undue risk from that operation.

(2) This clause applies to development on land, any part of which is less than 13 kilometres from a boundary of the Airport.

(3) The consent authority must not grant consent for development to which this clause applies unless the consent authority is satisfied that the proposed development will not attract birds or animals of a kind and in numbers that are likely to increase the hazards of operating an aircraft.

### **33G Water recycling and conservation**

(1) This clause applies to land—

(a) that is serviced by a water recycling facility, or

(b) that will be serviced by a water recycling facility as soon as the facility becomes operational.

(2) A consent authority must not grant consent to the carrying out of development on land unless the consent authority is satisfied that recycled water from the water recycling facility will be provided to the development.

(3) However, the consent authority may grant consent if it is satisfied that the development will be provided with recycled water from a water recycling or water conservation system approved by the Minister and specified in the Table to this clause.

### **Table of approved systems**

#### **Note—**

On the commencement of this Policy, the Table was blank.

### **33H Earthworks**

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

(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,

(b) to allow earthworks of a minor nature without separate development consent.

(2) Development consent is required for earthworks unless—

(a) the work is exempt development under this Policy or another applicable environmental planning instrument, or

(b) the work is ancillary to other development for which development consent has

been given.

- (3) Before granting development consent for earthworks, the consent authority must consider the following matters—
- (a) the likely disruption of, or detrimental effect on, existing drainage patterns and soil stability in the locality,
  - (b) the effect of the proposed development on the likely future use or redevelopment of the land,
  - (c) the quality of the fill or the soil to be excavated, or both,
  - (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,
  - (e) the source of fill material and the destination of excavated material,
  - (f) the likelihood of disturbing relics,
  - (g) the proximity to and potential for adverse impacts on a waterway, drinking water catchment or environmentally sensitive area,
  - (h) appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,
  - (i) the proximity to and potential for adverse impacts on a heritage item, an archaeological site, or a heritage conservation area,
  - (j) the visual impact of earthworks as viewed from the waterways.

**Note 1—**

The [National Parks and Wildlife Act 1974](#), particularly section 86, deals with disturbing or excavating land and Aboriginal objects.

**Note 2—**

[Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River \(No 2—1997\)](#) requires development consent for the “Filling of land, including submerged aquatic land, by raising the ground level through disposal of spoil from any landfill method (such as mining, dredging or refuse dumping), whether or not to enable the construction of a road or the erection of buildings or pylons or any other structure, where filling exceeds 1 metre in depth, or an area of 100 square metres”.

**331 Development on flood prone land**

- (1) This clause applies to development requiring consent that is carried out on flood prone land.
- (2) Consent is not to be granted to the carrying out of development to which this clause applies unless the consent authority has taken into consideration whether or not—

- (a) the development will adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
- (b) the development will alter flow distributions and velocities to the detriment of other properties or the environment of the floodplain, and
- (c) the development will enable safe occupation of the flood prone land, and
- (d) the development will detrimentally affect the floodplain environment or cause avoidable erosion, siltation, salinity, destruction of riparian vegetation or a reduction in the stability of the riverbank/watercourse, and
- (e) the development will be likely to result in unsustainable social and economic costs to the flood affected community or general community, as a consequence of flooding, and
- (f) the development is compatible with the flow conveyance function of the floodway, and
- (g) the development is compatible with the flood hazard, and
- (h) in the case of development consisting of the excavation or filling of land, the development—
  - (i) will detrimentally affect the existing drainage patterns and soil stability in the locality, and
  - (ii) will adversely impact or alter flood behaviour.

**Note—**

Clause 33H contains other matters that the consent authority must consider before granting development consent for earthworks.

### **33J Heritage conservation**

**Note—**

Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the [Heritage Map](#) as well as being described in Schedule 5.

- (1) **Objectives** The objectives of this clause are as follows—
- (a) to conserve the environmental heritage of the Western Sydney Employment Area,
  - (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
  - (c) to conserve archaeological sites,
  - (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.

- (2) **Requirement for consent** Development consent is required for any of the following—
- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—
    - (i) a heritage item,
    - (ii) an Aboriginal object,
    - (iii) a building, work, relic or tree within a heritage conservation area,
  - (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,
  - (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
  - (d) disturbing or excavating an Aboriginal place of heritage significance,
  - (e) erecting a building on land—
    - (i) on which a heritage item is located or that is within a heritage conservation area, or
    - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
  - (f) subdividing land—
    - (i) on which a heritage item is located or that is within a heritage conservation area, or
    - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.
- (3) **When consent not required** However, development consent under this clause is not required if—
- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development—
    - (i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and
    - (ii) would not adversely affect the heritage significance of the heritage item,



Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or

- (b) the development is in a cemetery or burial ground and the proposed development—
  - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
  - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the relevant council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

(4) **Effect of proposed development on heritage significance** The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) **Heritage assessment** The consent authority may, before granting consent to development—

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

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

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

(7) **Archaeological sites** The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the [Heritage Act 1977](#) applies)—

- (a) notify the Heritage Council of its intention to grant consent, and
  - (b) take into consideration a response received from the Heritage Council within 28 days after the notice is sent.
- (8) **Aboriginal places of heritage significance** The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance—
- (a) consider the effect of the proposed development on the heritage significance of the place and an Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and
  - (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration a response received within 28 days after the notice is sent.
- (9) **Demolition of nominated State heritage items** The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item—
- (a) notify the Heritage Council about the application, and
  - (b) take into consideration a response received from the Heritage Council within 28 days after the notice is sent.
- (10) **Conservation incentives** The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Policy, if the consent authority is satisfied that—
- (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and
  - (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
  - (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and
  - (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and
  - (e) the proposed development would not have a significant adverse effect on the

amenity of the surrounding area.

### **33K Consent for clearing native vegetation**

- (1) A person must not clear native vegetation on land in Zone E2 Environmental Conservation or Zone RE1 Public Recreation without development consent.

**Note—**

In addition to a consent of the relevant council required under this clause, it may be necessary to obtain other consents or authorisations for the clearing of native vegetation. See, for example, the [Biodiversity Conservation Act 2016](#).

- (2) Development consent under this clause is not to be granted unless the consent authority is satisfied of the following in relation to the disturbance of native vegetation caused by the clearing of the vegetation—
  - (a) that there is no reasonable alternative available to the disturbance of the native vegetation,
  - (b) that any impact of the proposed clearing on biodiversity values is avoided or minimised,
  - (c) that the disturbance of the native vegetation will not increase salinity,
  - (d) that native vegetation inadvertently disturbed for the purposes of construction will be re-instated where possible on completion of construction,
  - (e) that the loss of remnant native vegetation caused by the disturbance will be compensated by revegetation on or near the land to avoid a net loss of remnant native vegetation,
  - (f) that the clearing of the vegetation is unlikely to cause or increase soil erosion, salination, land slip, flooding, pollution or other adverse land or water impacts.
- (3) The consent authority must, when determining a development application in respect of the clearing of native vegetation on land zoned E2 Environmental Conservation have regard to the objectives for development in that zone.
- (4) This clause does not apply to or in respect of action required or authorised to be done by or under the [Electricity Supply Act 1995](#), the [Roads Act 1993](#), the [Surveying and Spatial Information Act 2002](#) or the [Sydney Water Act 1994](#).

### **33L Stormwater, water quality and water sensitive design**

- (1) The objective of this clause is to avoid or minimise the adverse impacts of stormwater on the land on which development is to be carried out, adjoining properties, riparian land, native bushland, waterways, groundwater dependent ecosystems and groundwater systems.

- (2) Before granting development consent to development on land to which this Policy applies, the consent authority must take into consideration whether—
- (a) water sensitive design principles are incorporated into the design of the development, and
  - (b) riparian, stormwater and flooding measures are integrated, and
  - (c) the stormwater management system includes all reasonable management actions to avoid adverse impacts on the land to which the development is to be carried out, adjoining properties, riparian land, native bushland, waterways, groundwater dependent ecosystems and groundwater systems, and
  - (d) if a potential adverse environmental impact cannot be feasibly avoided, the development minimises and mitigates the adverse impacts of stormwater runoff on adjoining properties, riparian land, native bushland, waterways, groundwater dependent ecosystems and groundwater systems, and
  - (e) the development will have an adverse impact on—
    - (i) the water quality or quantity in a waterway, including the water entering the waterway, and
    - (ii) the natural flow regime, including groundwater flows to a waterway, and
    - (iii) the aquatic environment and riparian land (including aquatic and riparian species, communities, populations and habitats), and
    - (iv) the stability of the bed, banks and shore of a waterway, and
  - (f) the development includes measures to retain, rehabilitate and restore riparian land.
- (3) For the purposes of subclause (2)(a), the ***water sensitive design principles*** are as follows—
- (a) protection and enhancement of water quality, by improving the quality of stormwater runoff from catchments,
  - (b) minimisation of harmful impacts of development on water balance and on surface and groundwater flow regimes,
  - (c) integration of stormwater management systems into the landscape in a manner that provides multiple benefits, including water quality protection, stormwater retention and detention, public open space, habitat improvement and recreational and visual amenity,
  - (d) retention, where practical, of on-site stormwater for use as an alternative supply to mains water, groundwater or river water.

### **34 Savings provisions**

- (1) Except for clause 29, this Policy does not apply to or in respect of a development application (including a staged development application) made (but not finally determined) before the commencement of this Policy.
- (2) Except for the amendment made to clause 12 and subject to subclause (3), the amendments to this Policy made by *State Environmental Planning Policy (Western Sydney Employment Area) Amendment 2020* do not apply to or in respect of a development application (including a staged development application) made (but not finally determined) before the commencement of *State Environmental Planning Policy (Western Sydney Employment Area) Amendment 2020*.
- (3) The amendments to this Policy made by *State Environmental Planning Policy (Western Sydney Employment Area) Amendment 2020* apply to or in respect of a development application (including a staged development application) relating to development on the land identified on the [Land Application Map](#) as Precinct 12 (Mamre Road) made (but not finally determined) before the commencement of *State Environmental Planning Policy (Western Sydney Employment Area) Amendment 2020*.

### **Schedule 1 Additional permitted uses**

(Clause 13)

#### **1 Precinct 2 (the Eastern Creek Precinct)—former Wallgrove quarry**

- (1) This clause applies to certain land at Wallgrove, being lot 2, DP 262213, lot 1, DP 400697, Lot W, DP 419612, lot 10, DP 241859 and lot 11, DP 558723.
- (2) The consent authority may consent to development on land to which this clause applies for the purposes of a waste facility for general solid waste (non-putrescible).

#### **2 Precinct 4 (the Raceway Precinct)**

- (1) This clause applies to lots 1 and 2, DP 1122038.
- (2) The consent authority may consent to development on land to which this clause applies for the purposes of—
  - (a) general automotive and motor sport industry related uses, or
  - (b) any commercial or retail uses associated with those referred to in paragraph (a)).

#### **3 Certain land at Erskine Park and Horsley Park**

- (1) This clause applies to certain land at Erskine Park and Horsley Park, shown as “Proposed Gas Pipeline alignment” on the [Additional Permitted Uses Map](#), being parts of the following—

- (a) Lot 4, DP 1094504,
- (b) Lot 103, DP 1143935,
- (c) Crown Land identified as James Erskine Drive,
- (d) Lot 6, DP 1124329,
- (e) Lot 11, DP 1178389,
- (f) Lot 21, DP 1173181.

(2) The consent authority may consent to development on land to which this clause applies for the purposes of pipelines.

#### **4 (Repealed)**

### **Schedules 2, 3 (Repealed)**

## **Schedule 4 Requirements relating to preparation and content of development control plans**

(Clause 18 (2))

### **1 General matters**

- (1) A development control plan must make provision for or with respect to the following matters—
- (a) traffic, parking and key access points,
  - (b) infrastructure services (including public transport),
  - (c) a detailed staging plan for any proposed development,
  - (d) biodiversity,
  - (e) flooding,
  - (f) urban design and landscaping,
  - (g) subdivision layout,
  - (h) heritage conservation (both indigenous and non-indigenous),
  - (i) extraction and rehabilitation,
  - (j) protection of the Sydney Catchment Authority Warragamba Pipelines,
  - (k) protection of electricity transmission facilities,

(l) management of the public domain,

(m) community and retail facilities.

(2) A development control plan may include detailed analysis of the development proposed within the precinct (or part of the precinct) to which it applies.

## **2 Traffic, parking and key access points**

In making provision for or with respect to traffic, parking and key access points, a development control plan must be consistent with the Transport and Arterial Road Infrastructure Plan and address (or include) the following—

- (a) roads, transit ways and provision for walking and cycling, both within the precinct to which the plan applies as well as off site linkages,
- (b) freight transport provisions, including initiatives for integrating freight handling within the precinct to which the plan applies, and maximising opportunities for synergies between industries with regard to materials handling,
- (c) the volume of traffic likely to be generated during construction and operation and an assessment of the predicted impact of that traffic volume on the safety and efficiency of the surrounding road network.

## **3 Infrastructure services**

(1) In making provision for or with respect to infrastructure services, a development control plan must address the following—

- (a) services such as water, sewerage, drainage and stormwater,
- (b) opportunities for rainwater harvesting from roofs,
- (c) corridors for telephone, electricity and gas supply.

(2) Stormwater management systems should be in accordance with relevant council and State government stormwater management plans and policies.

(3) The development control plan must also—

- (a) consider options for shared infrastructure corridors, and
- (b) contain appropriate on-site design and control measures to be implemented to ensure that the water quality of the receiving environment is not adversely affected by the proposed development, and
- (c) address the timing, funding and provision of the services.

#### **4 Biodiversity**

- (1) In making provision for or with respect to biodiversity, a development control plan must address the following—
  - (a) the existing natural environment, including any remnant vegetation, threatened species, endangered ecological communities, critical habitat, wildlife corridors and riparian areas,
  - (b) opportunities to offset the impact of any clearing of native vegetation,
  - (c) species or kinds of trees or other vegetation to which clause 32 applies.
- (2) Where appropriate, the development control plan must provide for the preparation of management plans for the rehabilitation of any communities of flora and fauna so that ecosystem diversity is maintained.

#### **5 Flooding**

- (1) In making provision for or with respect to flooding, a development control plan must provide a comprehensive flood analysis that (without limitation) addresses or includes the following—
  - (a) the impact of flooding on proposed development, including an estimation of the extent of flood prone land, high hazard areas and floodways, the implications of the full range of floods and the safety of people using or within the site,
  - (b) the impact of proposed development on flood behaviour on and off the site (including existing and planned development in the wider area),
  - (c) the flood hazard in the area (including hydraulic hazard, flood warning time, rate of rise of floodwater and duration of floods) and access and evacuation issues,
  - (d) viable strategies to manage any adverse impact of proposed development on flood behaviour.
- (2) In relation to flooding, the development control plan should be consistent with the provisions of the NSW Government's *Floodplain Development Manual: the management of flood liable land* (April 2005) and any relevant local and regional policies.

#### **6 Urban design and landscaping**

In making provision for or with respect to urban design and landscaping, a development control plan must—

- (a) include urban design principles drawn from an analysis of the site and its context, and
- (b) develop urban design parameters to guide subsequent development with measures,



including setbacks, building materials and colours, to minimise the visual impact of development, particularly if it is highly visible from major roads and the M7 and M4 Motorways,

- (c) identify areas of high visibility and consider options such as vegetation screens or landmark buildings of outstanding design.

## 7 Subdivision layout

In making provision for or with respect to subdivision layout, a development control plan must—

- (a) demonstrate that the subdivision layout is appropriate by achieving high degrees of access for all forms of transport (including access for pedestrians), and
- (b) detail the subdivision layout, including lot size and mix and the location of open space and the road network, and
- (c) provide for a detailed contour plan that identifies the finished contour levels of the site with details provided on the earthworks required to achieve the finished contours.

## 8 Heritage conservation

In making provision for or with respect to heritage conservation, a development control plan must address—

- (a) the impact of proposed development on indigenous and non-indigenous heritage values, and
- (b) opportunities to offset impacts on areas of heritage significance.

## Schedule 5 Environmental heritage

(Clause 33J)

### Part 1 Heritage items

Suburb	Item name	Address	Property description	Significance	Item no
Eastern Creek	Southridge	1 Southridge Road	Lot 1551, DP 1180982	Local	I1
Kemps Creek	Brick farmhouse	282 Aldington Road	Lot 142, DP 1033686	Local	I4
Kemps Creek	Gateposts to Colesbrook	269–285 Mamre Road	Lot 8, DP 253503	Local	I3
Kemps Creek	“Bayley Park”, house	919–929 Mamre Road	Lot 35, DP 258414	Local	I2

Prospect	Great Western Highway (former alignment)	Reservoir Road/ Tarlington Place/ Yallock Place/ Honeman Close	State	160
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## Dictionary

(Clause 5 (1))

**Additional Permitted Uses Map** means the [State Environmental Planning Policy \(Western Sydney Employment Area\) 2009—Additional Permitted Uses Map](#).

**Airport** means the Western Sydney International (Nancy-Bird) Walton Airport.

**biodiversity** means biological diversity.

**biological diversity** has the same meaning as in the [Threatened Species Conservation Act 1995](#).

**Note—**

The term is defined as follows—

**biological diversity** means the diversity of life and is made up of the following 3 components—

- (a) genetic diversity—the variety of genes (or units of heredity) in any population,
- (b) species diversity—the variety of species,
- (c) ecosystem diversity—the variety of communities or ecosystems.

**building** has the same meaning as in the Act.

**Note—**

The term is defined to include part of a building and any structure or part of a structure, but not including a manufactured home, a moveable dwelling or associated structure (or part of a manufactured home, moveable dwelling or associated structure) or a temporary structure within the meaning of the [Local Government Act 1993](#).

**centre-based child care facility** has the same meaning as in the standard instrument for a local environmental plan prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).

**depot** means a building or place used for the storage (but not sale or hire) of plant, machinery or other goods (which support the operations of an existing undertaking) when not required for use.

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

**environmental protection works** means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like.

**extractive industry** means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing,

sawing or separating, but does not include turf farming.

**extractive material** means sand, soil, gravel, rock or similar substances that are not minerals within the meaning of the [Mining Act 1992](#).

**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.

**flood prone land** means land impacted up to the level of the probable maximum flood and identified in a map adopted by the relevant council or published by the Government.

**freight transport facility** means a facility used principally for the bulk handling of goods for transport by road, rail, air or sea, including any facility for the loading and unloading of vehicles, aircraft, vessels or containers used to transport those goods and for the parking, holding, servicing or repair of those vehicles, aircraft or vessels or for the engines or carriages involved.

**general solid waste (non-putrescible)** has the same meaning as in clause 49 of Schedule 1 to the [Protection of the Environment Operations Act 1997](#).

**ground level (existing)** means the existing level of a site at any point.

**heritage conservation area** means an area of land of heritage significance—

- (a) shown on the [Heritage Map](#) as a heritage conservation area, and
- (b) the location and nature of which is described in Schedule 5,

and includes heritage items situated on or within that area.

**heritage item** means a building, work, place, relic, tree, object or archaeological site the location and nature of which is described in Schedule 5.

**Heritage Map** means the [State Environmental Planning Policy \(Western Sydney Employment Area\) 2009—Heritage Map](#).

**Industrial Release Area Map** means the [State Environmental Planning Policy \(Western Sydney Employment Area\) 2009—Industrial Release Area Map](#).

**industrial training facility** has the same meaning as it has in the standard instrument prescribed under section 3.20 (1) of the Act.

**Land Application Map** means the [State Environmental Planning Policy \(Western Sydney Employment Area\) 2009—Land Application Map](#).

**Land Reservation Acquisition Map** means the [State Environmental Planning Policy \(Western Sydney Employment Area\) 2009—Land Reservation Acquisition Map](#).

**Land Zoning Map** means the [State Environmental Planning Policy \(Western Sydney Employment Area\) 2009—Land Zoning Map](#).

**mine** means any place (including any excavation) where an operation is carried on for mining of any mineral by any method and any place on which any mining related work is carried out, but does not include a place used only for extractive industry.

**mining** means mining carried out under the [Mining Act 1992](#) or the recovery of minerals under the [Offshore Minerals Act 1999](#), and includes—

- (a) the construction, operation and decommissioning of associated works, and
- (b) the rehabilitation of land affected by mining.

**neighbourhood shop** means retail premises used for the purposes of selling small daily convenience goods such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include restricted premises.

**Note—**

See clause 30 for controls relating to the retail floor area.

**precinct** means a precinct shown on the [Land Application Map](#).

**restaurant** means a building or place the principal purpose of which is the provision of food or beverages to people for consumption on the premises, whether or not takeaway meals and beverages or entertainment are also provided.

**retail premises** means a building or place used for the purpose of selling items by retail, or for hiring or displaying items for the purpose of selling them by retail or hiring them out, whether the items are goods or materials (or whether also sold by wholesale).

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

**service station** means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following—

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.

**the Act** means the [Environmental Planning and Assessment Act 1979](#).

**Transport and Arterial Road Infrastructure Plan Map** means the [State Environmental Planning Policy \(Western Sydney Employment Area\) 2009—Transport and Arterial Road Infrastructure Plan Map](#).

**truck depot** means a building or place used for the servicing and parking of trucks, earthmoving machinery and the like.